U.S. APPROACH TO 1982 MEETING OF WORLD TRADE MINISTERS ON THE GATT

HEARING

BEFORE THE

SUBCOMMITTEE ON INTERNATIONAL TRADE

OF THE

COMMITTEE ON FINANCE

UNITED STATES SENATE

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U.S. APPROACH TO 1982 MEETING OF WORLD TRADE MINISTERS ON THE GATT

MONDAY, MARCH 1, 1982

U.S. SENATE,
COMMITTEE ON FINANCE,
SUBCOMMITTEE ON INTERNATIONAL TRADE,
Washington, D.C.

The subcommittee met, pursuant to notice, at 9:34 a.m., in room 2221, Dirksen Senate Office Building, the Honorable John C. Danforth (chairman of the subcommittee) presiding.

Present: Senators Danforth, Dole, Grassley, Chafee, Wallop, Bentsen, Byrd of Virginia, Matsunaga, Bradley, and Baucus.

[The committee press release follows:]

[Press release, Feb. 3, 1982]

FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE SETS HEARING ON THE U.S. APPROACH TO THE 1982 MEETING OF WORLD TRADE MINISTERS ON THE GENERAL AGREEMENT ON TARIFFS AND TRADE

The Honorable John C. Danforth (R., Mo.), Chairman of the Subcommittee on International Trade of the Senate Committee on Finance, announced today that the Subcommittee will hold a hearing on Monday, March 1, 1982 on the approach of the United States to the meeting scheduled for November 1982 of the Trade Ministers of countries that adhere to the General Agreement on Tariffs and Trade.

The hearing will begin at 9:30 a.m. in Room 2221 of the Dirksen Senate Office Building.

Background.—By executive agreement, the United States adheres to the General Agreement on Tariffs and Trade (GATT) and participates in the international organization, also known as the GATT, which administers it. Although the Congress neither has approved nor disapproved the GATT, it serves as the major international legal regime establishing the rules for trade in products. Pursuant to Congressionally-approved grants of negotiating authority, the United States has participated actively in periodic rounds of negotiations conducted under the auspices of the GATT and intended to reduce tariffs, to clarify existing rules, and to broaden its coverage. The "Tokyo Round" of multilateral trade negotiations, concluded in 1979, resulted in major reciprocal tariff reductions and "codes" of conduct applicable to many nontariff trade barriers and unfair trade practices; for example, standards, subsidies, and dumping. The Congress implemented these results in the Trade Agreements Act of 1979.

The members of GATT have agreed to convene a major meeting of their trade ministers in November 1982 to examine "the implementation of the multilateral trade negotiations, problems affecting the trading system, the position of developing countries in world trade, and future prospects for the development of trade." Among possible agenda items may be trade related investment issues, trade in services, and lack of reciprocal market access. In the exercise of its responsibilities for U.S. trade agreement programs, the Committee seeks in this hearing to review Administration plans for the GATT Ministerial Meeting, and to receive public suggestions on the course the United States should pursue there.

Senator DANFORTH. Today the Subcommittee on International Trade will hear testimony regarding the November Ministerial-level meeting of the General Agreement on Tariffs and Trade. This will be the first comprehensive meeting of GATT contracting parties since the Tokyo round of Multilateral Trade Negotiations ended in 1979.

Judging from the GATT statement announcing the meeting, and judging from the strains evident in the international trading system today, Ambassador Brock and his colleagues have their work cut out for them. The purposes of the November meeting, as stated in the GATT announcement, include examination of the functioning of the multilateral trading system, and support and improvement of the system for the benefit of all nations.

To this end, the GATT members are expected to address themselves to the implementation of the MTN, problems affecting the world trading system, the position of developing countries in world trade and, finally, the work program of the GATT for the 1980's.

Clearly, the objectives of the November Ministerial are very broad. They appear even more ambitious taken in the context of the current trials and tribulations facing the U.S. economy and economies throughout the world.

The jury has been out for some time with respect to the results of the Tokyo round. Recently, many have voiced doubts about the efficacy of the MTN codes, such as the treatment of agriculture under the subsidies code. Many have pointed out that the absence of effective guidelines in such areas as services and investment limit our ability to control trade-distorting actions by foreign countries. And, finally, many have come to question whether the United States is doing enough to counter unfair treatment of U.S. exports in foreign markets.

This upcoming GATT Ministerial is obviously timely, and I commend your leadership, Ambassador Brock, in working to insure that the meeting is indeed productive. Similarly, this hearing is timely. The committee looks forward to learning of our Government's intentions with respect to strengthening the current GATT system, enforcing U.S. rights under the GATT and preparing the international trading system for the challenges of the 1980's.

[Senator Danforth's opening statement follows:]

Opening Statement of Chairman John C. Danforth

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Senator DANFORTH. Senator Bentsen.

Senator BENTSEN. Thank you very much, Mr. Chairman, and I really want to congratulate you on having this meeting because this is the first, in effect, political decision to be made at the Ministerial level of GATT since we had the last negotiations, and unless we do something about it now, the chance may well pass us by.

But I would like to speak on one particular point, Mr. Chairman. I get a little weary of the administration saying that the Congress ought to wear the black hat in these negotiations. I have worn that black hat a couple of times and I might even have had it on with you, Mr. Chairman, but I believe that this Congress has been one that has worked the hardest of any legislature any place in the world in trying to implement free trade.

All you have to do is study European commission's implementation of the Tokyo round—some of those dry documents—to see what they have done as compared to what this nation has done. This Congress has done virtually everything that previous Administrations have requested in trying to push for free trade, and those who talk about trying to go back to some kind of bilateral trade will finally end up destroying multilateral trade in this country. We just should not do that.

Now you get into a situation where we are talking about implementation. We have the tools within present GATT provisions to enforce the Tokyo round agreements; if we do not, then let's strengthen them. Let us do what we have to do there rather than destroying the multilateral trade systems.

I, for one, am not in a situation where I want to see us continue to push in the direction of quotas. Now that is what the Europeans and Japanese have been pushing for for years, and I think they would like to see us fall into that kind of trap. I cannot help but remember the results of the chicken war, and that really was not something that was very commendable for this country. We should not continue to push in that direction.

Now if we cannot find a way to enforce these agreements then we can resort to other types of measures, but even then I would hope very strongly that the Administration will pursue to the ultimate those things that have to be done within the provisions of GATT to preserve free trade and to open up other markets.

If I correctly assess what my colleagues are saying here, with their reciprocity talk and bills to bring that about, they really do not want to go back to protectionism. They really want to see those markets opened up in these other countries, and I would like to see us push as much as we can in the implementation of those things that we now have within GATT, which means that we implement and the administration brings actions under section 301.

Mr. Chairman, I appreciate very much your calling this particular hearing and having these witnesses before us as we pursue what should be done at the political level in these next negotiations.

Thank you. Mr. Chairman, I have quite a lengthy statement I would like to put in the record at this point.

Senator **DANFORTH**. It will be put in the record.

[The prepared statement of Senator Bentsen follows:]

OPENING STATEMENT OF HON. LLOYD M. BENTSEN

Mr. Chairman, I want to thank you for holding this hearing at this time. The GATT Ministerial is the first political level meeting of the GATT since the end of the Multilateral Trade Negotiations (MTN) and for that reason alone, it is a significant opportunity for the United States. You have recognized this and you have also recognized that the agenda for the Ministerial is being developed now by a preparatory committee in Geneva, so that if this Committee does not take this opportunity to look at this process now, then the opportunity may pass us by. So I appreciate this hearing. Finally, I also appreciate that you have brought together a group of witnesses who can be both informative and responsive. I especially appreciate our trade Ambassador in Geneva who is leading the preparatory committee's discussion for the United States, Mike Smith, for coming in for this hearing.

Mr. Chairman, the ultimate objective of the United States in the GATT Ministerial ought to be to assure that the GATT operates in a way that is consistent with United States policy. I would submit that United States policy as expressed in acts of Congress has not changed for years. In fact, I would argue that this is the leading free-trade legislature in the world. No legislative body anywhere has shown as much political maturity in backing the multilateral trading system as has the Congress of the United States. The negotiating objectives in the Trade Act of 1974, the thorough and searching implementation of the letter and the spirit of the MTN agreements in the Trade Agreements Act of 1979, are unmatched in the world. Of course, it takes a detailed reading of some pretty dry documents, such as European Commission directives supposedly implementing the MTN agreements, to see the difference in the implementation of these agreements in various countries, but when that detailed work has been done by any objective observer, the conclusion must be that United States implementation is much more enlightened than that of its trading partners.

So I believe Congress has done its part in implementing these agreements.

What's more, Congress has done everything it was asked to by way of giving the Executive Branch tools for enforcing these agreements internationally. There is nothing about section 301 that would not allow an active policy of enforcing these agreements, and I think that this Committee is united in the basic policy that these agreements are to be actively enforced. We do not really want to be in the business of choosing how much beef is imported in Japan or how much poultry is imported into the Middle East, or how many cars are imported into the United States, but that is what other governments want to do. They want to regulate just how much everybody gets in each market. Well, I intend to fight every inch of the way against an allotted market system like that. And I am sure other countries will try to push me and other Senators into just that kind of deal. It won't work. The United States is going to fight for open markets because we are the most competitive system in the world, and we expect our Executive Branch to use the tools we have given it to make that system work.

Now I do not think that there is really as much difference as the press has portrayed about this objective on the Finance Committee. Perhaps I am reading my colleagues incorrectly, but I do not see in their so-called reciprocity legislation any desire to destroy free trade. I believe our shared objective is to get our Administration off the dime. Our Administration knows how to do it, and they ought to know by now that we expect them to do it. I do not think that the game of Congress being the bad cop in trade and the Administration being the good cop is a very effective way to enforce these agreements, because ultimately, foreign governments will either learn that Congress really is not a very bad cop at all or we will have to show them that we are, and then you will see what protectionist legislation really looks like. We just cannot have that and sustain multilateral systems.

In fact, I believe that what European governments want us to do is adopt reciprocity legislation and fall into the same trap of a protectionist spiral that Europe has obviously been struggling for since sometime in the mid-1970's, if not before.

Instead, what I think the current mood in Congress is about is that we are going to have to begin affirmatively to use the international trading system. Now that raises a fundamental question about that system. It has to do with the GATT disputes settlement process—as arcane and airy a bit of GATT lore as anything any politician has had to deal with. Just imagine explaining to constituents how GATT works, and particularly how the disputes settlement system works. How can I possibly explain to producers of citrus in south Texas why the citrus cas against Europe has been going in GATT for seven years? Why has it had an active phase right this year of six or seven months without any progress at all?

The basic problem GATT faces is this: What do we do if we win a GATT case, and what do we do if we lose? For example, when this country takes another country to GATT and attempts to demonstrate that it is acting inconsistently with its international obligations, we have to be prepared to take action to enforce an affirmative determination if it comes. We have to be prepared to retaliate. That means that when we are choosing GATT cases, we should be looking at a number of things in addition to the merits of the cases. We should be looking at how an affirmative determination in that case will build the GATT system; we should be looking at the international support for our position; and we should be looking at what we can do if we win. The situation that developed when we won in the chicken war was terrible. Retaliation against imports that our people wanted was counterproductive. I think that when we go into this GATT Ministerial, we have got to try to build a disput settlement mechanism. We have got to outline in more detail what countries can do to press other countries for changes in their systems that have been found to be inconsistent with the GATT. For example, we should push for multilateral measures against countries violating the agreement.

And then there is the question of what we do if we lose a GATT case. If these agreements are interpreted by GATT not to have the kind of content we anticipated, we may have to rethink our attitude toward the GATT. We ought, in that kind of situation, to begin to look at the GATT as an affirmative tool to pry open markets. GATT has a number of exceptions in it, exceptions that are used everyday by other countries to prevent the spirit of the GATT from being implemented, even if they obey the letter of it. There is room for waivers in GATT, there are balance of payments exceptions, there are general exceptions and national security exceptions. And there is also the unbinding of duties.

For example, we have a terrible problem in the area of high technology development. Ambassador Brock will talk today I expect about the possibility of a high tech negotiation during the Ministerial meeting. Our problem in high tech is that other governments are focusing their investment on a limited number of products that they hope to be able to sell to us because of easy access previously negotiated to the U.S. market. I think that if those countries are not willing to abide by the spirit of the GATT as well as its letter—to implement it with the maturity that the United States Congress has—then the answer is not for the Administration to ask the Congress to bully these foreign governments. The answer is for the Administration to figure out a way to unbind those duties. That is a GATT-legal method of reprisal that leaves us completely free to protect that industry. Now at least that is consistent with the GATT agreement. That is more than our trading partners can say for their recent actions.

Those are the kinds of tough issues we need to be thinking about when we look at the question of the agenda for the Ministerial meeting. We need to be looking at how we build the multilateral system, and I think we do it by actions, not threats. I think we do it by a detailed, technical understanding of the GATT system and how it works. I think we do it by using professionals like Mike Smith and Bill Brock to implement an aggressive policy of taking the statutes they already have and using them to develop the consensus that is needed to make this system go.

Mr. Chairman, I mean no criticism of the reciprocity measures. I understand their intention, and in general I agree with them. But I am tired of wearing the black hat of international trade. Congress does not deserve that hat; foreign governments do. Your proposed bill is in many respects a road map for the Administration to do what it ought to be doing anyway. That's what I think the agenda for the GATT Ministerial ought to start out with. That's item number one—how do we implement these agreements.

Senator DANFORTH. Senator Dole.

Senator DOLE. Thank you, Mr. Chairman. I have a statement which I ask to be made a part of the record. I also have another committee meeting at 9:30 and I hope to get back within 15 to 20 minutes, because I think it should be clear—I am certain it is clear to the panel—but clear to everyone who may have an interest that this committee, and the whole committee, is very much concerned about many of the issues just discussed by both Senators Danforth and Bentsen, who have been leaders in this area for a long time.

I just want to underscore what they have said, and I am happy to see agriculture represented on the panel this morning, because we are very disturbed and distressed with some of the actions of the European Community countries as far as subsidies are concerned. Mr. Lodwick, I think, can address some of our concerns and we are aware of the efforts being made by Ambassador Brock and others in this field.

Needless to say, we continue to be frustrated with our efforts in Japan. I read several accounts yesterday that they were frustrated with us, and I think that is maybe all right. A little frustration never hurt anyone, and there are a lot of frustrations this year.

I have indicated to some of the Japanese who have been kind enough to visit with me that certainly we want to keep their friendship. They are very important to us, and we think we are very important to them, but we cannot tolerate $25 billion deficits. I think they understand that. But there is still much work to be done on both sides.

So we are here, I think, hopeful, and totally objective about our policies. I again thank the chairman for calling this hearing.

[The prepared statement of Senator Dole follows:]

STATEMENT OF SENATOR BOB DOLE

The GATT ministerial meeting to be held later this year presents an important opportunity for the GATT signatories to do two things: First the basic GATT agreement and the MTN codes can be reviewed to determine how they are working; and second the signatories can assess whether other pressing issues such as services and investments should be addressed in the multilateral context. I believe the ministerial should address both of these broad issues and neither should be considered to the exclusion of the other.

REVIEW THE EFFECTIVENESS OF EXISTING AGREEMENTS

Several weeks ago Ambassador Brock and officials from several of the executive agencies appeared before this committee and testified about problems concerning the subsidies code. They described the harmful effects of the European common agricultural policy and the effect of subsidized European agricultural products on the American farmer. They also described the difficulties of protecting American agriculture from these types of practices given the differential treatment between agricultural and manufactured products in the subsidies code. This clearly is one area that needs to be reviewed carefully. The administration must not only stress that it will vigorously press existing U.S. rights, it must also insist that the less equitable treatment received by agricutural items be remedied. Similarly, the United States must insist that other countries observe the requirements of the Government procurement code and that the U.S. interests are not prejudiced by our strict adherence to the civil aircraft agreement.

COMMITMENT TO ADDRESS OTHER INTERNATIONAL TRADE ISSUES

The administration should also make every effort to insure that the signatories commit to seeking solutions for other major trade distorting issues. Many of the developed countries, as well as the less developed countries, have implemented practices like local content rules or procurement requirements in foreign investments which distort the mechanisms and effeciencies of the free market and may violate our basic GATT rights. U.S. commerical interests which provide services around the world are increasingly faced with restrictive barriers. Since our businessmen are by far the leaders in exporting services to other countries we must not only preserve the market access we have achieved, we must also seek to expand our market opportunities.

I cannot say with assurance that the GATT is the proper forum within which to address service and investment issues but I am certain that now is the time to seek multilateral discussion on these issues. If we are to achieve multilateral agreements in time to preserve and enhance U.S. interests that GATT ministerial is the place to begin the discussions.

I look forward to the testimony of Ambassador Brock and the other administration and public witnesses. I know they have been working hard on preparations for the ministerial meeting and are just as concerned as the members of the committee in insuring that it yields beneficial results for our farmers and manufacturers.

Senator **DANFORTH**. Senator Grassley.

Senator **GRASSLEY**. Mr. Chairman, I have a statement I want to put in the record.

Senator **DANFORTH**. Fine.

[The prepared statement of Senator Grassley follows:]

STATEMENT OF SENATOR GRASSLEY

Mr. Chairman, I would like to commend you for holding this hearing today to discuss matters which I believe will be very important as we approach the November 1982 meeting of GATT Trade Ministers.

I firmly believe that foreign trade and investment flows are an important element that highlight the interdependence between the United States and the rest of the world economies. In foreign trade and investments, a number of conflicting interests and objectives are at stake. Whether it is a decision to enact an embargo or to establish tariffs that facilitate the assembly of finished components abroad, consumers, producers, workers and foreign governments are all affected. In our own government it is my understanding that at least Twenty-five (25) Executive Branch Departments and independent agencies are involved at some level in the formulation and implementation of U.S. foreign trade and investment policy. If my information is correct there are Five (5) agencies solely concerned with trade or investment; Ten (10) agencies with issue-specific interest in trade and investment. We need to make sure that all parties to this government's trade policies are being consulted along with Members of Congress so that we do not go into a Ministerial Meeting without a common negotiating position and some specific goals. If we lack a cohesive policy, I am afraid it may damage our current international trading system and prevent us from addressing new areas of concern.

I agree with a statement made by Ambassador Brock in a speech made in Davos, Switzerland on February 1, 1982 in which he said, "The key test of our willingness to choose between alternatives and to start shaping a revitilized trading system is now we collectively prepare for the GATT Ministerial meeting. Those who argue that the GATT Ministerial should function as a ceremonial confirmation of the status quo have misjudged the temper of the times. At the GATT Ministerial and beyond, there is room for Pragmatists and visionaries alike."

Mr. Chairman, I am glad that you have provided us the opportunity to come to grips with the problems of investments and services along with the thorny question of safeguards and perfecting arrangements for trade in Agriculture and High-Technology products. I sincerely hope that we come away from this hearing with a commitment to make the trading system work.

Thank you, Mr. Chairman.

Senator **DANFORTH**. Ambassador Brock, you indicated you have an appointment that you have to keep about 35 minutes from now. We will honor that. If you would proceed with any statement that you care to make, then we will direct our questions to you alone and if you leave, then we will call up the other witnesses.

STATEMENT OF HON. WILLIAM E. BROCK, U.S. TRADE REPRESENTATIVE, ACCOMPANIED BY HON. MICHAEL B. SMITH, DEPUTY U.S. TRADE REPRESENTATIVE IN GENEVA

Ambassador **Brock**. Thank you, Mr. Chairman. I want to agree with every dot and tittle of what the Senator from Texas has said. I do not know what you have got in your prepared text, Senator.

Senator **Bentsen**. More of the same—more elegant, though.

Ambassador **Brock**. Well, I am sure your verbal presentation was fine. I appreciate the comments made by all of you, and I just could not more strongly express my agreement with your statement of both our intent and the specifics of what we are trying to do in this trade policy.

I think that is really why I wanted to come this morning, because this committee is absolutely crucial to our ability to have a successful Ministerial meeting and it is imperative that we have a successful meeting in Geneva in November.

I guess when times get tough—as the Senator from Kansas has said—and people get frustrated, that is the most important time of all for us to begin to try to take positive steps to demonstrate that things are not becoming unravelled. The alternative is to simply sit back and let it happen and I do not think any of us would like that.

We have been through prior years in which this country did not pay attention to its trade opportunities or imposed new barriers, and we suffered immeasurably as a result. We have a GATT Ministerial. It is the first time since 1973 that this has occurred. The Ministerial was supported by the Cancun Summit, by the Ottawa Summit, by the OECD, the Group of 18. We have set it now for November 23 to 26 of this year.

The reasons behind the broad international support for this meeting are evident. Recession, slow growth, unemployment and payments imbalances experienced by GATT members have intensified labor and industry demands for protectionism. At the origin of these pressures are the very real difficulties being encountered by a wide range of industries and the equally widespread tendency to blame these difficulties on foreign competition.

In response to these pressures, some countries are tempted to adopt—and some have adopted—restrictive trade policies to shield their domestic industries from competition; domestic subsidies to maintain employment; and government credits and similar trade-distorting incentives to increase exports.

Such pressures place increased strains on the GATT mechanism and the multilateral framework for conducting trade. We have long maintained that restrictive policies only serve to distort international trade and investment flows, misallocate resources and lead to a cycle of trade inequities which could very well threaten the multilateral trading system.

Given the diversity of the world economy and the evident dependence of each of our economies on the performance of others, it seems increasingly obvious that the world's interdependent relationships cannot satisfactorily develop except within the context of some system. Such a system, I would argue, must be based on a multilateral approach. No comprehensive and rational trade policy can be formulated in response to isolated bilateral trade imbalances.

As an earlier generation learned in the 1930's, bilateralism divorced from a framework of multilateral principles tends to create more problems than it solves. There are pressures to seek a balance, if not a surplus, in each bilateral relationship.

This is an impossible goal that in economic terms tends to reward the least competitive, penalize the most efficient, and reduce the standard of living in all trading countries. Without agreed rules, the international trading system would be more unstable and uncertain, resulting in reduced trade volumes and slower economic growth. There is no adequate substitute for an internationally agreed set of rules which codifies each nation's common interest in the trading system.

I recognize, however, that these complicated, interrelated worldwide economic problems are not usually easily resolved, either in the framework of existing GATT agreements or elsewhere. Nevertheless, our best prospects for maintaining an effective and coherent trade policy and for dealing with the proliferation of trade problems that face us, is by properly integrating the use and expansion of the GATT system into our overall trade strategy.

For the last 35 years, the cornerstone of U.S. trade policy has been the General Agreement on Tariffs and Trade. The function of the GATT through its rules is to provide stability—and stability means predictability—so that manufacturers, farmers and traders can plan and invest in the knowledge that their export markets and their sources of essential imported materials will not be suddenly closed to them.

The history of the GATT is one of successful adaptation to circumstances. Through successive rounds of tariff negotiations the GATT has markedly reduced tariffs as a significant barrier to international trade. In the most recent round of negotiations, considerable progress was made in establishing rules governing a number of the most obvious nontariff barriers to trade.

Yet by its very success in these areas, the GATT must now turn to those issues which it had previously avoided due to the lack of any international consensus on the nature of the problems, much less the solutions. The convening of a GATT Ministerial in November offers a pivotal opportunity to embark on an effort to improve the rules and countries' adherence to them, as well as to undertake a work program to extend GATT disciplines in new areas.

Those who argue that the GATT Ministerial should function as a ceremonial confirmation of the status quo misjudge the importance of this event for the health of individual economies and the international trading system. The Government of the United States is committed to further trade liberalization. Through the GATT Ministerial we seek to achieve an international commitment to improve upon what we have already negotiated, but more importantly, to begin work in areas where the GATT has not yet played an active role.

We simply cannot rest on our laurels while we face a major challenge in preventing a serious deterioration in the world trading system. The Ministerial will help us focus on the urgency of resolving the immediate problems facing us and of committing ourselves to addressing the longer term trade issues of the 1980's.

The U.S. objectives for the GATT Ministerial are to: One, strengthen the GATT institution; two, resist protectionism; three, provide a forum for discussion of developing country trade issues; and, four, launch a program of trade liberalization in the 1980's.

We seek a serious and thorough review of the trading system and a commitment to further trade liberalization through the 1980's.

With regard to the program for trade liberalization, we have developed a list of items which we would like to see on the final agenda. To facilitate preparations here and in Geneva, we have grouped items into clusters according to their status and the nature of work likely to result from the meeting. For example, items that could be resolved in the short term would not be tied directly to those requiring longer term solutions.

We have proposed that the Ministerial address the following issues: Implementation of the MTN codes. I think that is self-explanatory.

Completion of unfinished MTN negotiations—safeguards. We stongly urge multilateral agreement on a safeguards code which should cover all actions that have the effect of protecting domestic producers from injury as a result of competition from imported products. Our objective is to have serious negotiations aimed at reaching agreement on a safeguards code now, not later.

Counterfeit code: We seek to complete negotiations in this code so that the ministers could be in a position to approve a final agreement that could be opened for signature by interested countries.

The upcoming issues related to established work programs include: Negotiation of extended entity coverage of the Government procurement code, as called for by code article IX(6)(b); review of the standards code in conjunction with the triennial review of the code, as required by code article 15.9; further negotiation of the aircraft code; and tariff adjustments resulting from the adoption of the Harmonized System of Tariff Nomenclature.

The emerging issues that require decisions regarding future work programs include trade in services. Our objective is to achieve a commitment to undertake a detailed work program on trade in services. This should be supported by a political statement on the importance of trade in services, the serious threat of expanding barriers to services trade, and the need for the trade ministers to facilitate the development of a systematic approach to services trade problems.

The work program should focus on the growing intensity of barriers generally in services trade and the examination of GATT articles and codes as to their possible applicability to services. Our goal in the Ministerial would be to see that the signatories identify these objectives with some specificity and to establish a general time frame in which to complete this phase of the GATT services issue.

On trade-related investment issues, here we seek a political commitment at the Ministerial meeting to initiate a work program on investment policies with a particular focus on trade-distorting practices such as performance requirements.

On trade in high technology goods, a critical issue in our future trade relations is the maintenance or restoration of the international competitive position of our advanced technology industries by reducing barriers to trade, investment and technology flows.

On agricultural trade, as you have noted, the United States is seeking to bring the treatment of agriculture in the GATT more into conformity with the rules for industrial trade.

We are particularly concerned with the participation of developing countries in the trading system. We intend to carry out President Reagan's pledge at the Cancun North-South Summit by dealing seriously in the GATT Ministerial with trade issues of importance to the developing countries, such as improved market access in developed countries.

At the same time, we wish to promote the further liberalization of the developing countries' trade regimes, especially the newly industrializing countries.

Preparations for the Ministerial meeting, including the development of a mutually agreed-upon agenda and administrative aspects, are being carried out in the preparatory committee, Prepcom, established by the GATT Council. The Prepcom has scheduled monthly meetings and has set the goal of reaching agreement on the agenda by the end of May. The next meeting of this group is scheduled for the 25th of March. We should have a clearer idea of what issues will be on the final agenda in late April.

The United States, as a leader in the GATT, has the opportunity to help shape the agenda and set the tone of the meeting. We believe that the trade ministers of the member countries of the GATT should meet together in Geneva this November for more than just cocktails and platitudes. We must take stock of the GATT's success and then roll up our sleeves and begin to address ways to improve the multilateral trading system so it is more responsive to the trade problems of the 1980's and beyond.

Mr. Chairman, I thank you for your interest in this subject and your support of our goals. I appreciate the chance to be with you and I am prepared to respond to whatever questions you have.

Senator DANFORTH. Senator Bentsen.

Senator BENTSEN. Thank you, Mr. Chairman.

Mr. Ambassador, the Japanese seem to think that we have gone to seed and that we cannot innovate or be creative any more when it comes to high technology in the eighties or the nineties, and I just do not believe that.

We are no longer the dominant nation in the world on that and we have got a lot of equals, but I believe we are No. 1 among equals, and I believe the Japanese are going to be singing a different tune when it comes to financing the next level of the high technology.

Now as we work on this competitive problem that we have with them, I would like to know specifically what kinds of objectives you have. What do you plan to accomplish with them in the high technology area? I want to know what you do if you fail in that regard. What is your fallback position?

I would also like to know how it is integrated with the rest of the administration.

Ambassador **Brock**. Let me take the integration issue first because I think if we do not speak with one voice not much else that we do is going to be very effective.

We have had a whole series of meetings within the administration. We have an ongoing study program on the question of high technology. We have discussed at length the steps that we can take to improve our current posture and we are in complete agreement, I think, on the need for this country to have an effective trade policy and one that is aggressive and outreaching and not one that is regressive.

In specific response to your question on the steps that need to be taken, one of the problems with high technology, as you well know, Senator, is that the field is moving so fast that it stays ahead of our ability to insure that the trade remains open and vibrant.

As we develop technologies in the computer area, for example, we run into problems. We just had one that is illustrative recently, where the German Bundesposte—and Germany is one of the greatest advocates of free trade in the world and I do not know what we would do without their active support in most of these question areas—but the Bundesposte has a monopoly over all communications and they have a regulation that would require that subsidiaries—in this case a U.S. subsidiary operating in that country—has to process data before they transmit it by satellite to the parent company.

Well, that is just an inefficient way to do business. If they could batch up out to the satellite, back down to the parent company headquarters—whether it was in Rochester, N.Y., or London, for that matter—it would be a much more efficient utilization of computer hardware and software.

But those are the kinds of problems we are running into that people had not even envisioned when we were writing the trade rules in earlier years. So we do feel very strongly that we need to deal with the absence of an international code of conduct in these areas. We are going to press very hard in the GATT on the whole range of issues that affect high technology.

The services question is our top priority, as you know. Trade investment performance requirements also are very effective in restraining high technology exchange. Capital flows have to be free in order to allow high technology to be available worldwide.

One of the great calls from the South to the North is for technology transfer. Well, the most effective instrument we have for technology transfer is in the instrument of the multinational institutions that are trading everywhere, and if there are barriers to their ability to trade or to invest then, again, we face a problem that will constrain trade.

Senator **Bentsen**. If I can interrupt, I see my time is about to expire on me, Mr. Ambassador. You make a point when you talk about how fast technology changes. My concern is when you get to section 301. When I talk to my citrus growers in south Texas and try to explain to them why it is taking some 7 years to do what has to be done on the importation of citrus into the European Common Market, and then talk about what we have to do on high technology, where it leapfrogs ahead in short periods of time, it is obvious that we have to strengthen the Multilateral Trade Agreement and the implementation of these 301 cases.

I would hope very much that that is what you would be trying to do at the political level of GATT.

Ambassador **Brock**. It certainly is. We very much agree with that and that is a major goal.

Senator **Bentsen**. Thank you.

Senator **Danforth**. Mr. Ambassador, our country has traditionally taken the lead in opening up world trade. We have been the moving force behind GATT. We are the moving force behind the GATT Ministerial. We have an agenda that we would like to pursue in, as you say, further liberalizing international trade.

My concern is that we have been the moving force in changing the rules but we may not have been the moving force in enforcing the rules. If all we do is change the rules and if there is uneven compliance with them, the effect of this is that the United States—long committed to the principles of free trade—continually pushes forward with establishing new rules of opening up international markets, which means opening up more of our market—because we play by the rules.

Therefore, the further we push, the more open we are. But perhaps other countries are not as open and not as willing to comply, as we are. And, as a matter of fact, when the suggestion is made well, let's enforce our rights, let's enforce our rights under anything—subsidies, goals, anything else—immediately a lot of people say well, wait a minute. That is protectionist. We are going to start a trade war.

Or, if you will read Hobart Rowan's column in yesterday's Post, it is almost as though if we raise any questions about lack of reciprocity or lack of access to Japanese markets, we have somehow bruised the very delicate sensitivities of the Japanese. They have customs that we have to honor. One custom is to export everything they can export and the other custom is to import as little as they can import.

It seems to me that the basic strategy of American trade policy should at some point raise the question of well, what is in it for us? How are we as a country going to benefit from the new rules or from the liberalization?

Ambassador **Brock**. Exactly.

Senator **Danforth**. Because if we do not do that then free trade becomes a kind of an ideological point or a theory which in practice is only followed by one of the partners or very few of the partners and not by all. So I wonder if you could assure the subcommittee that as we approach next November there is going to be a real emphasis on the part of our guys to make sure that whatever comes out of an international trading system, whatever comes out of any further progress, is going to be something which will be beneficial to our economy.

Ambassador **Brock**. Yes, I can. I get a little weary of this argument from some quarters that I always want to see demons in whatever the United States does, Senator. But enforcement of the law is not protectionism. It is the only safeguard we have against protectionism.

If the American people do not perceive that their rights are being enforced and protected under the agreements already extant, they are not going to support the continued one-way trade process. That is true of any other population now.

When I was first before this committee last year, Pat Moynihan asked, I thought, a very thoughtful question. He said, "are you going to go after some of the violations of these agreements, because we do not have any case law on which to predicate our future actions." And I said, "yes."

We have done so. We have a number of cases pending before the GATT. Some are initiated by domestic industry, some by this office. But, for example, when we take Canada to the GATT in protest of its actions under the FERA, we are doing so because we must define the law, and you only do that by the practice of filing the case and finding out if in fact, as Senator Bentsen has said, the agreements are inadequate or do not comport with how we think they were written. Then it is our job to strengthen those agreements.

But the first step is to test whether in fact there is a code of law, and we are going to do that because we have no other protection against the surfeit of measures that are being taken around the world to constrain U.S. opportunity for trade, and I state that unequivocally and with as much strength as I can.

We have to enforce the law or we are not going to live in a world of law and we cannot trade except in a world of law.

Senator **Danforth**. Senator Grassley.

Senator **Grassley**. My first question is in regard to news reports of the Japanese Government's efforts to place our reciprocity or legislation, as they call it—and I do not accept that terminology—but anyway that legislation as a subject of discussion before the economic conference that generally comes during the month of June.

Are those reports accurate and is there anything for us to fear from that or, in your judgment, is that just for internal Japanese political consumption?

Ambassador **Brock**. I do not know what is behind it, Senator, other than a possible misunderstanding of what it is we are about in this country. I think it is fair to state, as most of you have, that we are somewhat weary of trade barriers to U.S. products and U.S. services.

We are somewhat weary of the inadequacy of free flow of capital. We are asking that there be equity or reciprocity, if you prefer the term, in the trading process. There is implicit in that no threat of this Nation collapsing into protectionism. It simply is not in our interest to do so, but it is in our interest to insist that others who are competitive, fully competitive, in terms of market achievement should have the same standards, the same rules of the game by which we play, that we do—that their markets be as open as ours.

That is a goal of U.S. policy. We will pursue it and if anyone wants to raise it in the summit or any other forum, we will be delighted to discuss the matter.

Senator **Grassley**. OK. My second question deals with the President's proposed Caribbean free trade proposal last week. Will this issue become a topic of debate at GATT since investment restrictions may nullify GATT-guaranteed benefits since the administration has a policy of who may qualify based upon the effort of certain conditions that must be met by our country and also the whole subject of bilateralism in and of itself as it relates to Caribbean-U.S. trade?

Ambassador BROCK. In terms of the initiative, it is, I think, true that we will have to seek a GATT waiver for this program, as any preferential arrangement does have to do.

Our ultimate goal would obviously be to get as many countries as we can into two-way free trade arrangements, but the first step that we are taking is preferential. It is a departure from prior U.S. policy and it will require a waiver of the GATT, but in no way does it impinge upon our fundamental obligations to the GATT and any country that wants to challenge that we will be happy to discuss it with them.

Senator GRASSLEY. You do not see it causing any particular troubles for us in our relationship with GATT?

Ambassador BROCK. No, I really do not.

Senator DANFORTH. Senator Byrd.

Senator BYRD. Thank you, Mr. Chairman.

Mr. Ambassador, a prominent columnist yesterday made this assertion, that reciprocity is merely a back door approach to protectionism. Do you agree or disagree with that assertion?

Ambassador BROCK. I agree that it can be that if it is improperly designed. I think one of the efforts that I have made in this entire discussion is to separate reciprocity and those areas presently covered by the GATT and the international agreements on those areas that are not.

We have access to seek reciprocity in the trade and goods areas now under the GATT and if in fact the GATT is inadequate, as we think it is in the area of agriculture, then it is our goal to strengthen the GATT so we have full access to reciprocal trade and free trade.

But there are areas not covered by the GATT, and this covers the whole range of services where two-thirds of our American people work. That is not covered by international agreement and the discussion of reciprocity there has a very different connotation because it is not an attack upon the GATT. It is an effort to say to other countries open up your system. Let us compete. That is all.

Senator BYRD. The reciprocal trade policy was first enunciated, as I recall, by a Senator from Tennessee named Cordell Hull, who became Secretary of State and the reciprocal trade agreements became the basic policies of this country for several decades, for many, many years.

Ambassador BROCK. That is correct, sir.

Senator BYRD. And was regarded as a liberal trade policy.

Ambassador BROCK. It is a liberal trade policy if it is properly done. The whole premise of the GATT is to achieve reciprocity. That is its basic purpose, and if we try to strengthen the GATT we are supporting both the principle of reciprocity and a free trading system at the same time.

Senator BYRD. If we are not willing to seek reciprocity I do not see how we are adequately or appropriately serving the working people of the United States. Would you agree?

Ambassador **Brock**. I think reciprocity has been and remains the goal of U.S. trade policy.

Senator **Byrd**. Now this column yesterday stated:

> It is abundantly clear that President Reagan's two chief trade policy spokesmen, Ambassador Bill Brock and Commerce Secretary Malcolm Baldrige, are in fact using the congressional drive for reciprocity as a lever to force Japan to open its markets wider.

My question to you is, "Are you in fact using this as a lever to force Japan to open its markets wider?"

Ambassador **Brock**. I guess the answer is that I would take anything I could get to open up the Japanese markets.

Senator **Byrd**. I take that to be what I hope it is, a clear-cut yes to my question.

Ambassador **Brock**. Whatever we can do to open up the Japanese system ought to be done, Mr. Chairman. I guess the concern that I have, it is fair to be worried about legislative reciprocity on a bilateral or sectoral basis as one that could lead to protectionist actions. That is not a wise step to take, but reciprocity as a goal, which would argue that others should be as open as we when they are industrially as advanced as we, is a perfectly logical and legitimate national statement of purpose.

I want to make that distinction. We are not supporting and have no interest in supporting, nor do I think any of the advocates of the bills have any interest in suggesting, restraint on trade imposed by this country which would be construed as protectionism, or whether in fact it would be protectionism.

That is not our goal. Our goal is to get others to open up, not to close our market.

Senator **Byrd**. I think that is an appropriate goal. I think it would be a mistake for this country to revert to a protectionist policy.

Ambassador **Brock**. We must not.

Senator **Byrd**. But I do not regard reciprocity as being a protectionist policy, and I assume that you do not.

Ambassador **Brock**. It must not become that, and it will not with this administration, if we have anything to say about it.

Senator **Byrd**. Thank you, Mr. Chairman.

Senator **Danforth**. Senator Wallop.

Senator **Wallop**. Thank you, Mr. Chairman, and I want to add my praises to you, Bill, for the way in which you handle this office and the responses to date this morning.

It occurred to me when I heard the Japanese Government was going to offer us $10 billion in foreign aid, that $10 billion in new markets or investment or even $10 billion in sharing the defense burdens of that part of the world would have been a more useful and less cynical offer on the part of the Government.

It seems to me as well that if the United States is going to continue to be a leader in free trade, free world trade, it requires followers. You cannot be the only one opening your market and maintain credibility at home. I think I sense that in your response to Senator Byrd's questions on reciprocity.

Ambassador **Brock**. Yes, you do.

Senator **Wallop**. Also, I want to compliment you and your office on initiating the actions you have in Canada and Europe, but your statement in response, I think, to Senator Danforth's question was that we have to test the law and find out what it says. I guess my question to you would be do we have time, given the procedural inefficiencies, to test that law before we go to the next round?

Ambassador **Brock**. Yes, we do. The agreements themselves provide a specific time frame. We have expressed considerable frustration with the European Community, for example, in delaying some of these procedures, but I am confident that that will change because they, as much as we, have an investment in the world system. We have got to make it work and we are going to do that within the time frame that is required. We have to.

Senator **Wallop**. Have they got procedural means by which they can divert it until after the next round starts?

Ambassador **Brock**. No, not really, because both the international agreement, which has a time frame, and U.S. law, which has a time frame, would allow us to take action if results are not forthcoming in consonance with the agreement.

Senator **Wallop**. Saying "U.S. law" gives me pause. I hope we can do it faster than we can bring Presidential assassins to trial.

Ambassador **Brock**. We can.

Senator **Wallop**. It just seems kind of ironic.

Let me ask, in the same area, one other thing. Assuming there are decisions in our favor in these, will that lessen your complications or increase your complications in the new round in terms of trying to get response of reciprocity and response of fairness?

Ambassador **Brock**. It would lessen our complications. One of the problems we have is that there is, I think, honest disagreement as to what prior agreements have said. They interpret the agreements one way. We interpret another.

One of the things we are doing by going to the GATT is testing which one of us is right. If, in fact, we are right, I am confident that their practice will change. If we are wrong, then that simply says that the arrangements made to date are not adequate and have to be strengthened. But that just argues that we have to go into the GATT and insist that they be strengthened.

Senator **Wallop**. I guess that what concerns me is that while all the commentary one reads in this country and in other places is that the United States is toying around with protectionism, that what we are really saying is many of our participants in GATT are the ones who indeed are toying with protectionism, and the worry lies there, not here.

I do not think we will see an abdication of our leadership role in that.

Ambassador **Brock**. No, sir, you will not. And I guess part of it is that the United States has been the leader of the free world for 35 consecutive years now without one blip in the curve. We have been the force in the world that has argued for trade liberalization and when people hear talk that they interpret as being protectionism, they worry.

They worried back in the 1960's when we were discussing the bill by McCarthy, and I think they had a reason to worry. I do not think—Congress would not pass that bill, and they would not pass it today. I do not think Congress would pass that kind of bill in this session either.

We are fighting for the system. We are saying gentlemen, the system hasn't worked as well as it was designed. We have got to make it work. That is what this Ministerial is all about, and that is the price of free trade.

Senator **Wallop**. Thank you.

Senator **Danforth**. Senator Baucus.

Senator **Baucus**. Thank you, Mr. Chairman.

Mr. Ambassador, I am slightly concerned that during the last year, approximately, we have had these kinds of meetings. Some of the same themes are recurrent. That is, members of this committee continually ask you—that is, you and your office and the U.S. Government—to be a little more firm in negotiations with GATT or with various countries on trade matters.

Senator Danforth asked the question what about force. You know, the United States leads in setting the rules and perhaps we have the cart before the horse. I do not know whether you agree with that, but the question is what do we do? What should your office do, what should this committee do to send a clear signal to the Japanese, in particular, and the European Economic Community, in particular, to open up and grant concessions quickly to avoid the kind of protectionist legislation that we—you, and this committee and most of the country—do not want?

How do we send a sufficient signal to get them to significantly grant significant concessions? Or, to state the question differently, how much time do you need before the Congress gets so impatient that it is going to come in with a very, very strong bill? What is the time frame that you need?

Ambassador **Brock**. I have told most of our trading partners, I think, Senator, that I think this is the most crucial year in terms of international trade policy, perhaps, we have faced since the Second World War. The pressures are intense, both here and in other countries, and we have got to be sure that we stay on the positive course. So we do not have much time.

Senator **Baucus**. So you are saying this year—1982, calendar year 1982?

Ambassador **Brock**. Yes, sir.

Senator **Baucus**. And what do you regard as significant on your list of priorities? What has to be done precisely in 1982?

Ambassador **Brock**. In terms of a country example, Japan has taken some steps. We are moving up their tariff schedule about 2 years in December. The steps to take off nontariff barriers in January were positive steps. So much more needs to be done.

Senator **Baucus**. I do not mean to pin you down too much. Are they halfway there? Are they 10 percent the way there? Are they 75 percent of the way? How far did those recent so-called concessions go?

Ambassador **Brock**. I do not know how to put a number on it. At best maybe 15 or 20 percent of the way. It is a question of philosophy.

Part of the problem with Japan is, as Senator Danforth noted, is societal, but whether there are steps that can be taken, they all ought to be taken and they all ought to be taken in the next 3 or 4 months at the outside. We just do not have time to go beyond that.

Senator **Baucus**. What other steps do you think need to be taken?

Ambassador **Brock**. Of course, the whole focus of this hearing today is on the Ministerial. I think that is the culmination point. We have to see some tangible steps in that Ministerial.

We have made a number of suggestions. We want a work program in services and investments. We want tangible action, not just words—tangible action on things like the counterfeiting code, safeguards code—things that would complete the implementation of the Toyko round.

We want serious discussion of agriculture. We have just got to have that, and if we can see some of those positive things coming out of that Ministerial then I think we will have gotten, at least for the moment, beyond the point of crisis. But if we do not, then I think the world is taking a very, very dangerous backward step.

Senator **Baucus**. Again, I do not mean to push you, but could you again explain, what you regard as serious action? What do you mean by "serious"? That is kind of like beauty. It is in the eyes of the beholder.

Ambassador **Brock**. What we are trying to do is separate those items that are subject to action now from those actions that are going to take some time. The action now, one example, would be a counterfeiting code. We have been talking about that for years, but we have not yet been able to get a code that we could put out for people to sign.

Safeguards have been under discussion for a long time, but we in the United States and the developing world all—all of us collectively—do not see any action. We have got to see safeguards.

Senator **Baucus**. I think you are right, and I think this Congress will act very quickly unless there is something very, very significant. It reminds me, ironically, of a Japanese poem to the effect that I always knew one day that I would travel down this road, though I did not know it would be so soon, and I think we here in the Congress have an idea we are going to take some very, very positive action on it, and it may be a lot sooner than we think.

That is why I am suggesting more directly that other countries that may be interested in this subject, take this action or else we very quickly, very soon. will be acting.

Can I have a very strong assurance that agricultural issues will be on the agenda?

Ambassador **Brock**. Yes, sir, absolutely.

Senator **Baucus**. And it will be on the final agenda?

Ambassador **Brock**. I cannot imagine a GATT Ministerial meeting that would not consider the problem of agriculture. It just would be unacceptable.

Senator **Baucus**. Thank you very much.

Senator **Danforth**. Senator Bentsen wanted to make one short observation.

Senator **Bentsen**. Mr. Chairman, I think there is one area where we are making a marked penetration of the Japanese market. I observe that half the TV and half the press table back there is made up of people who are reporting to the Japanese market today. They understand the importance of this and it is important that we understand how important it is for the United States.

Ambassador **Brock**. We would invite more Japanese coverage of what the United States is doing.

Senator **Danforth**. Mr. Ambassador, thank you very much. A number of Senators have questions—additional questions—for you. I am one of them. We would like to submit them to you for written response, if that is satisfactory.

Ambassador **Brock**. We would be delighted.

SENATOR DANFORTH'S QUESTIONS TO AMBASSADOR BROCK AND HIS RESPONSES

Question. If the United States seeks to expand existing trading rules to deal with service, investment and other new issues, will these issues overshadow the need to address inadequacies in the existing GATT rules covering trade in goods? (E.g., the treatment of agricultural export subsidies under the Subsidies Code.)

Answer. The United States believes that there are certain trade issues which are ripe for decisions or action by the trade ministers at the GATT Ministerial meeting, while other trade issues require longer-term study in the GATT. The United States therefore proposes that the trade ministers address an agenda that distinguishes those issues which could be resolved in the near-term, and which would strengthen or reaffirm the GATT principles, from those issues which require longer-term work programs in the 1980's.

With regard to the near- and medium-term issues, the United States encourages the ministers to undertake a rigorous review of the implementation and operation of the Tokyo round agreements and arrangements, including subsidies, as well as the other on-going activities of the GATT. The United States seeks completion of the unfinished business of the Tokyo round (that is, concluding negotiations on a safeguards code and a commercial counterfeiting code) and seeks ministerial approval of work anticipated or already underway in the MTN code committees.

As this work goes forward, the United States proposes that the GATT begin to address the trade issues of the future by establishing work programs on trade in services, trade-related investment problems, and trade in high-technology goods. In each case, the United States is proposing work programs to examine the issues and the basic trade principles of the General Agreement on Tariffs and Trade. It is the United States position that these work programs would provide a basis on which GATT members would determine whether it would be appropriate to enter into negotiations that would establish principles and rules governing trade in these areas. The United States views these work programs as long-term efforts of the GATT to make the trading rules more responsive to the problems which will confront all GATT members more and more in this decade. It is the United States position that work on these issues should proceed in tandem with efforts to improve and strengthen the existing GATT rules covering trade in goods.

Question. In the past, the Administration has stated its intention to enforce U.S. rights with respect to foreign unfair trade practices through section 301 of the Trade Act, and the GATT and its subsidiary codes. Are these existing mechanisms sufficient to guarantee market access opportunities for U.S. exports of goods, services, and investments? Should there not be a more systematic mechanism for identifying their removal?

Answer. The administration is indeed committed to pursuing its rights with respect to foreign unfair trade practices. Insofar as such practices affect trade in goods, we would look to the GATT and the codes as the primary avenue for enforcement of U.S. rights. The substantive provisions of some of the codes are only now being tested for the first time; some codes have not yet been tested at all. As we develop experience with the codes, we may find deficiencies in the current rules. In that event, we will have to seek a revision of the rules.

The rules of the GATT are generally not applicable to the service and investment areas. Therefore, there has been a need to provide some other mechanism to promote foreign market access for U.S. services and investment. Section 301 was amended in 1979 to make it clear that the statute was intended to cover services. Nevertheless there are still ambiguities as to how Congress intended this authority to be implemented which diminish the usefulness of the statute. We are currently considering amendments to section 301 which will address this problem.

The language of section 301 concerning the scope of foreign practices covered is broad enough to encompass foreign actions in the investment field which burden U.S. commerce. However, unlike the case in services, the statute clearly does not provide a specific authority to retaliate through imposition of restrictions on investment. Thus, at present our leverage to assure that other governments provide fair access for U.S. investment is not as broad as that for goods and services.

With regard to the final question, the problem is not one of identifying the offensive foreign practice. This we are able to do with the tools at hand. It is, of course, preferable to address the problem of market access for U.S. services and investment in a systematic way, e.g. through a multilateral negotiation, and we have indicated our support for proposals to provide such negotiating authority. However, until other governments are willing to engage in negotiations, we must have the tools to address specific problems as they arise.

Question. The GATT announcement for the November Ministerial level meeting specifically refers to the position of developing countries in world trade. Does the U.S. intend to discuss the issue of "graduation" of advanced developing nations, such as Brazil and Korea, and the treatment of major LDCs that are not GATT members, such as Mexico, under this agenda item?

Answer. United States objectives for LDC issues in the GATT Ministerial support our overall goals for the Ministerial, namely, to generate momentum for additional trade liberalization during the next several years, to forestall protectionism and to strengthen the GATT as an institution. Accordingly, our objectives with respect to the LDCs are: First, to launch a process in the GATT that will offer opportunities for improving U.S. market access in the more advanced developing countries during 1982–85; second, to strengthen the GATT's institutional capacity for dealing with DC–LDC trade issues; graduation is at the top of our agenda of such issues; and third, to develop LDC interest (or at least acquiescence) in GATT work programs in the new areas of services, investment and high-technology trade.

Certainly we are seeking further progress in bringing the trade regimes of the advanced developing countries into closer conformity with the GATT obligations and market openness of the developed countries. Our ability to do this, however, depends in part upon our willingness to deal seriously with the developing countries' concerns about protectionism, market access and structural adjustment in developed countries and about the GATT's handling of safeguards and dispute settlement. Each side has apprised the other of its principal objectives for the Ministerial. During the next few months in the GATT Preparatory Committee for the Ministerial, we will explore possible bases for addressing each side's needs. We are approaching these discussions with flexibility and a strong desire for progress toward freer trade, but we expect the advanced developing countries to adopt positions and responsibilities consistent with their much improved trading competitiveness and economic strength.

We continue to place very high priority on bringing countries such as Mexico into the GATT. While this is not likely to be a separate agenda item for the Ministerial, we will take every opportunity during the Ministerial preparations to encourage Mexico and other important LDC non-members to join the GATT.

Question. Does the GATT provide adequate remedies for dealing with government interference in high technology trade, such as trade in chemicals or telecommunications services? If not, what can and should the United States be doing about this growing problem?

Answer. The non-tariff barrier of government interference in trade was the subject of intense discussion and negotiation during the Tokyo round. A number of MTN agreements, in particular the agreements on subsidies, government procurement and product standards, were designed to stem the most egregious forms of government intervention in international trade relations. To the extent that the trade problems of the high technology sector relate to government subsidies, procurement practices or product standards, the MTN agreements and the GATT dispute settlement procedures provide adequate remedies to violations of established trade principles. The United States recognizes, however, that the characteristics of trade in high technology products are such that trade distortions may exist in areas not heretofore considered by the GATT, such as industry-targetting and government financed research and development.

Since trade in high technology goods is viewed by virtually all nations as critical to their economic growth and international competitiveness, and the issues will be of increasing importance to the United States in this decade and beyond, the United States proposes that the trade ministers at the GATT Ministerial meeting initiate a work program on advanced technology goods. The focus of this work program would be to review the policies and practices that affect trade in this sector, examine how these barriers and disincentives are dealt with under the existing GATT framework, and determine what modifications or other specific steps are needed to deal with the trade problems of the advanced technology sector.

Question. You have expressed a preference for working within the GATT system. Yet you have also pointed out that the GATT needs broadening in the areas of services and investment. How do you propose we act now with respect to those problems the GATT is not equipped to handle? Are you supporting that we not act until there are services and investment codes?

Answer. No, we believe, in fact, that addressing services trade issues now, in an effective way, is an important part of the process leading up to possible GATT negotiations on services. The administration's five-part work program on services includes, inter alia, plans for full use of existing bilateral relationships with other governments to resolve current trade problems brought to the government's attention. The work program also calls for inclusion of services in a review of export disincentives and a review of domestic legislative provisions relating to the achievement of reciprocity for U.S. service industries. As a part of this overall process, we are developing a work program to deal with bilateral services trade problems as part of our preparation for the GATT Ministerial. This program effectively began with the March U.S./Japan Trade Subcommittee meeting where we raised a number of bilateral trade problems with Japan in services. Although it is still too early to tell what the results of this meeting might be, we are hopeful that a number of services trade issues will be addressed in any new package of trade liberalization measures announced by the Japanese.

SENATOR HEINZ' QUESTIONS TO AMBASSADOR BROCK AND HIS RESPONSES

Question. How do you propose we act now with respect to those problems the GATT is not equipped to handle?

Answer. With regard to investment-related trade problems we have just begun to test the GATT system. I would propose that we follow through with using the GATT mechanism in those areas where we believe, but other contracting parties may not, the GATT system can be used. If, after exhausting our potential GATT remedies, we find that there are investment-related trade problems not covered by the GATT, we should then press to have them included in the GATT Framework.

Question. Are you supporting that we not act until there are services and investment codes?

Answer. I think that we should leave our options open but now is not the time to act. As I mentioned above we are in the process of testing the GATT in these investment-related trade areas. We are also proposing a work program in the GATT which would address these problems. At the same time we are continuing to consider what domestic action and possible new legislation is required.

Question. You have pointed out that it would be inappropriate to retaliate in the investment area against countries that don't have any investment here to retaliate against. In such circumstances, what should we do instead?

Answer. It often has proven more effective to negotiate first using the threat of retaliation rather than actually using retaliation.

As for the specific question at hand regarding the countries in question, they are likely to be mostly developing nations who benefit from our economic support through OPIC, and the Ex-Im Bank and from trade support through our Generalized System of Preferences. This Administration already has agreed to take into account a country's use of performance requirements when determining eligibility for the various programs. We are now considering further steps in these same areas, such as denial of GSP benefits by product categories and country for those countries which have local content and export requirements in that product category.

Question. If it is your contention that adequate authority exists to deal with barriers in merchandise trade, why haven't you used that authority to deal with barriers in Japan, for example?

Answer. We have used our authority in the past to deal with Japanese trade barriers, and will continue to do so. Three investigations of Japanese practices have been initiated under Section 301 authority in recent years. The first investigation involved allegations that Japan's quantitive restrictions on leather imports were inconsistent with the GATT. In January, 1979 we initiated formal consultations, under GATT Article XXIII:1, which resulted in an understanding whereby Japan expanded its leather quota.

In another recent Section 301 case, we investigated allegations that Japan imposed unreasonable and discriminatory restrictions on cigars, and in a companion case we investigated allegations of Japanese practices restricting imported pipe tobacco. After we took the case to a GATT panel under Article XXIII:2, Japan repealed its internal tax on imported cigars in March 1980 and we reached an agreement with Japan which liberalized market restrictions and reduced import duties on cigars and pipe tobacco.

On April 12-13, 1982, we held consultations with the Japanese concerning their quantitive restrictions on agricultural and marine products, and informed them that if we do not see prompt liberalization of those restrictions, we will consider moving to GATT Article XXIII:1 consultations.

Question. Would you comment on the two standards of reciprocity and national treatment? Which is more appropriate for service and investment issues?

Answer. There has been significant confusion over just what is meant by the term reciprocity. When referring to a balancing within specific products or sectors we have referred to sectoral of reciprocity. The concept of sectoral reciprocity would require that the treatment accorded by the U.S. to foreign services and investments constitute the standard by which a foreign government's treatment of U.S. services and investment is judged. Under the concept of national treatment the foreign government's treatment of U.S. services and investment is judged against the treatment accorded to its own nationals with respect to these area.

Our efforts to bring services and investment under international discipline include the desire to prevent foreign governments from discriminating against U.S. services and investments. That discrimination could be either the denial of most favored nation treatment (discrimination against the U.S. vis a vis a third country), or a denial of national treatment (discrimination vis a vis nationals of the host country). Both of these standards would consistently operate to serve our national economic interests. A standard of sectoral reciprocity would not so operate. For example, where a foreign government's treatment of foreign services is similar to U.S. treatment of foreign services but is less advantageous than that accorded to domestic services, we should wish the national treatment standard to apply.

Question. Would you comment on the Danforth bill's definition of reciprocity in terms of "substantially equivalent competitive opportunities" (SECO)?

Answer. I believe that the Danforth bill is intended to address market access problems. SECO is often loosely referred to in general terms of market access. However, SECO is not an appropriate cause of action for an international grievance. Its focus would be on both U.S. market access and foreign market access when our concern should be with barriers to our exports. We simply cannot balance our international trade on a product-by-product, sector-by-sector or country-by-country basis. That approach would be contrary to the economic basis of our bipartisan trade policy, a policy aimed at securing opportunities for competitive products and services.

Senator DANFORTH. We do appreciate your time. I also would like to make one concluding comment, and that concerns the bill which I introduced on reciprocity—and, of course, we will have a hearing on this later in the month—but it is certainly not designed as a wolf-crying threat or as a means just by having introduced it to somehow strengthen your hand.

My view is that we have been crying wolf so often and so long that there is not very much reason for anybody to believe us. The idea is also not to follow a protectionist route, but rather to devise a reasonable and, I think, flexible but ongoing systematic way of opening up foreign markets to the United States and of providing equity in access.

I think this business of introducing legislation in order to get people's attention is flawed and that a sporadic reaction, series of reactions, by any other country—not just Japan, Canada, Europe, anybody—to an outrageous preposterous bill—I do not think that that does very much good.

So I just want to say to you and anybody else who is interested that it is not my intention to introduce bills in the Congress with the idea that they will not go anywhere and will only provide talking points for an ongoing opening up of foreign markets.

Ambassador BROCK. I understand that, Senator, and I respect it greatly. I thought you made a very important statement when you were in Japan, which I personally thought was valuable and the comment that you made that it was demeaning for these two incredibly productive societies to be shouting at each other all the time.

We have too much at stake to allow that to continue. We need to develop a rational process for the resolution of disputes in an equitable, predictable, logical fashion. Hopefully the GATT is the primary focus of that discussion, but I respect the effort that you have made and I understand it very well.

Senator **Danforth**. Thank you very much.

Senator **Baucus**. Mr. Chairman, I would just like one comment to follow up on the point that you just made. It concerns me a little bit that we often say we want to stand up for our rights but we are not going to indulge in protectionism. The trouble is that that sends a signal to the country and to the world that we are not very serious. As you said, we have cried wolf so often that there is the feeling in the country and the world that we are not taken sufficiently seriously.

In my view, the United States is No. 1. There is this book about Japan being No. 1. I think we are No. 1, too, not only in the sense that you mentioned, Mr. Chairman, but in another sense. It is the sense of self-preservation. We have got to worry about ourselves first before we worry about Japan or any other country.

And it is true that we do not like protectionism, but I think it is more true that we are going to stand up for ourselves, that we are going to take corrective action and we are going to take sufficient action in order to convince the Japanese and other people that we are serious. Whether that is retaliation or whether it is protectionism—whatever it is—something is going to happen here.

So I do not think that when we say we do not like protectionism, we should not be taken seriously. I do think we should be taken very seriously. The people are going to force us in the Congress to be protectionist or to take retaliatory action or take protective action or do something here. For too long we have been too nice in the world and I think the American people are ahead of us and Congress is forcing us to do much more quickly than we have.

Thank you.

Senator **Danforth**. Thank you, Mr. Ambassador.

Ambassador **Brock**. Thank you very much.

Our next witnesses are Messrs. Lodwick, Hormats, Leland, and Waldmann. Mr. Lodwick, you are not only first on the list but you have staked out squatter's rights.

TESTIMONY OF

Ambassador William E. Brock, III
U.S. Trade Representative

I welcome this opportunity to appear before this Subcommittee to discuss the Administration's preparations for the Ministerial meeting of the member countries of the General Agreement on Tariffs and Trade (GATT) in November of this year. Our preparations for this important meeting will set the tone and direction for U.S. trade policy in the 1980's and, as such, is a topic of intense interest to the Congress. My purpose today is to lay out the context in which the Ministerial will take place and discuss U.S. goals and objectives for the meeting.

The idea of a GATT Ministerial was first raised at the OECD's Ministerial last June. Later that month, the high-level steering group of the GATT, the Consultative Group of Eighteen, agreed that it would be useful to consider, at the political level, the overall condition of the trading system. Further support was provided by the Declaration at the Ottawa Summit — in July and in discussions at the Cancun Summit in October. The formal decision to convene the Ministerial was made by the contracting parties of the GATT at their annual meeting, November 23-25. The members decided unanimously that their next session, to be held November 23-26, 1982, should be convened at the Ministerial level.

The reasons behind the broad international support for this meeting are evident: recession, slow growth, unemployment and payments imbalances experienced by GATT members have intensified labor and industry demands for protectionism. At the origin of these pressures are the very real difficulties being encountered by a wide range of industries and the equally widespread tendency to blame these difficulties on foreign competition.

In response to these pressures, some countries are tempted to adopt - and some have adopted - restrictive trade policies to shield their domestic industries from competition; domestic subsidies to maintain employment; and government credits and similar trade-distorting incentives to increase exports. Such pressures place increased strains on the GATT mechanism and the multilateral framework for conducting trade. We have long maintained that restrictive policies only serve to distort international trade and investment flows, misallocate resources and lead to a cycle of trade inequities which could very well threaten the multilateral trading system.

Given the diversity of the world economy and the evident dependence of each of our economies on the performance of others, it seems increasingly obvious that the world's interdependent relationships cannot satisfactorily develop except within the context of some system. Such a system, we would argue, must be based on a multilateral approach; no comprehensive and rational trade policy can be formulated in response to isolated bilateral trade imbalances.

As an earlier generation learned in the 1930's, bilateralism divorced from a framework of multilateral principles tends to create more problems that it solves. There are pressures to seek a balance, if not a surplus, in each bilateral relationship. This is an impossible goal that in economic terms tends to reward the least competitive, penalize the most efficient, and reduce the standard of living in all trading countries. Without agreed rules, the international trading system would be more unstable and uncertain, resulting in reduced trade volumes and slower economic growth. There is no adequate substitute for an internationally agreed set of rules which codifies each nation's common interest in the trading system.

We recognize, however, that these complicated, interrelated world-wide economic problems are not usually easily resolved, either in the framework of existing GATT agreements or elsewhere. Nevertheless, our best prospects for maintaining an effective and coherent trade policy and for dealing with the proliferation of trade problems that face us, is by properly integrating the use and expansion of the GATT system into our overall trade strategy.

For the last thirty-five years, the cornerstone of U.S. trade policy has been the General Agreement on Tariffs and Trade. The function of the GATT through its rules is to provide stability - and stability means predictability - so that manufacturers, farmers and traders can plan and invest in the knowledge that their export markets and their sources of essential imported materials will not be suddenly closed to them.

The fundamental principle of the General Agreement, as embodied in the famous "most-favored-nation" clause is that trade should be condicted on the basis of non-discrimination, with exceptions allowed only in certain circumstances. The GATT makes it clear that the only protection that should be given to domestic industry is through the customs tariff and not through other commercial measures. A stable and predictable basis for trade is provided by the binding of tariff levels. Overseeing the application of these rules and providing mechanisms for discussion, negotiation and settlement of trade problems between countries is the essential function of the GATT institution.

The viability of the GATT as the principal international organization for developing and maintaining the trading system is evidenced by its successful adaptation to major changes in the world economic scene since its entry into force in 1948. The GATT has responded to shifts in the relative economic strengths of member countries, the emergence of developing countries as a major factor in international affairs, the trend toward preferential economic groups and monetary and payments difficulties of its members. These changes have emphasized GATT's role as the forum where such developments can be discussed, where disputes arising from them can be resolved, and where a continuing effort can be made to liberalize world trade.

The history of the GATT is one of successful adaptation to circumstances. Through successive rounds of tariff negotiations, the GATT has markedly reduced tariffs as a significant barrier to international trade. During the most recent round of negotiations, considerable progress was made in establishing rules governing a number of the most obvious non-tariff barriers to trade.

Yet, by its very success in these areas, the GATT must now turn to those issues which it had previously avoided due to the lack of any international consensus on the nature of the problems, much less the solutions. The convening of a GATT Ministerial in November offers a pivotal opportunity to embark on an effort to improve the rules and countries' adherence to them, as well as to undertake a work program to extend GATT disciplines in new areas.

Those who argue that the GATT Ministerial should function as a ceremonial confirmation of the status quo misjudge the importance of this event for the health of individual economies and the international trading system. The Government of the United States is committed to further trade liberalization. Through the GATT Ministerial we seek to achieve an international commitment to improve upon what we have already negotiated, but more importantly, to begin work in areas where the GATT has not yet played an active role.

We simply cannot rest on our laurels while we face a major challenge in preventing a serious deterioration in the world trading system. The Ministerial will help us focus on the urgency of resolving the immediate problems facing us and of committing ourselves to addressing the longer-term trade issues of the 1980's.

The U.S. objectives for the GATT Ministerial are to:

- strengthen the GATT institution;
- resist protectionism;
- provide a forum for discussion of developing country trade issues; and
- launch a program of trade liberalization in the 1980's.

We seek a serious and thorough review of the trading system and a commitment to further trade liberalization in the 1980's.

With regard to the program for trade liberalization, we have developed a list of items which we would like to see on the final agenda. To facilitate preparations here and in Geneva, we have grouped items into clusters according to their status and the nature of work likely to result from the meeting. For example, items that could be resolved in the short-term would not be tied directly to those requiring longer-term solutions.

We have proposed that the Ministerial address the following issues:

- o implementation of the MTN codes
- o completion of unfinished MTN negotiations:

-- Safeguards: We strongly urge multilateral agreement on a safeguards code which should cover all actions that have the effect of protecting domestic producers from injury as a result of competition from imported products. Our objective is to have serious negotiations aimed at reaching agreement on a safeguards code, now, not later.

-- Counterfeit Code: We seek to complete negotiations on the Counterfeit Code so that the Ministers could be in a position to approve a final agreement that could be opened for signature by interested countries.

- o upcoming issues related to established work programs:

-- Negotiation of extended entity coverage of the Government Procurement Code, as called for by Code Article IX(6)(b).

-- Review of the Standards Code in conjunction with the triennial review of the Code, as required by Code Article 15.9.

-- Further negotiation of the Aircraft Code, as provided for in Code Article 8.9.

-- Tariff adjustments resulting from the adoption of the Harmonized System of Tariff Nomenclature.

- o emerging issues that require decisions regarding future work programs:

-- Trade in Services: Our objective is to achieve a commitment to undertake a detailed work program on trade in services. This should be supported by a political statement on the importance of trade in services, the serious threat of expanding barriers to services trade, and the need for the trade ministers to facilitate the development of a systematic approach to services trade problems. The work program should focus on the growing intensity of barriers generally in services trade and the examination of GATT articles and codes as to their possible applicability to services. Our goal in the Ministerial would be to see that the Signatories identify these objectives with some specificity and to establish a general time frame in which to complete this phase of the GATT services exercise.

-- Trade-related investment issues: Here we seek a political commitment at the Ministerial meeting to initiate a work program on investment policies with a particular focus on trade-distorting practices such as performance requirements. A multilateral agreement on a work program on investment should first develop an inventory of investment practices that distort trade and then examine ways to strengthen the GATT rules to cover these practices. This will be the first international effort in the GATT on investment issues. We hope to broaden the work program at a later date to cover a wide range of investment practices and problems. Also, we will continue to test the applicability of the current GATT articles to the trade-distorting effects of performance requirements, as is being done in our current GATT case against Canada's FIRA.

-- Trade in high-technology goods: A critical issue in our future trade relations is the maintenance or restoration of the international competitive position of our advanced technology industries by reducing barriers to trade, investment and technology flows.

- agricultural trade

The U.S. is seeking to bring the treatment of agriculture in the GATT more into conformity with the rules for industrial trade.

- participation of developing countries in the trading system

We intend to carry out President Reagan's pledge at the Cancun North-South Summit by dealing seriously in the GATT Ministerial with trade issues of importance to the developing countries (e.g., improved market access in developed countries). At the same time, we wish to promote the further liberalization of the developing countries' trade regimes, especially the newly industrializing countries.

Preparations for the Ministerial meeting, including the development of a mutually agreed-upon agenda and administrative aspects, are being carried out in the preparatory committee (Prepcom) established by the GATT Council. The Prepcom has scheduled monthly meetings and has set the goal of reaching agreement on the agenda by the end of May. The next meeting of this group is scheduled for March 25.

We should have a clearer idea of what issues will be on the final agenda in late April. The United States, as a leader in the GATT, has the opportunity to help shape the agenda and set the tone of the meeting. We believe that the trade ministers of the member countries of the GATT should meet together in Geneva this November for more than just cocktails and platitudes: we must take stock of the GATT's success and then roll-up our sleeves and begin to address ways to improve the multilateral trading system so it is more responsive to the trade problems of the 1980's and beyond.

STATEMENT OF SEELEY G. LODWICK, UNDER SECRETARY OF AGRICULTURE FOR INTERNATIONAL AFFAIRS AND COMMODITY PROGRAMS, DEPARTMENT OF AGRICULTURE

Mr. LODWICK. Mr. Chairman, I have a statement. If it would be satisfactory with you I would ask that it be included in the record. But in addition to that, Mr. Chairman, I would appreciate the opportunity to make a few remarks.

Senator DANFORTH. Please proceed.

Mr. LODWICK. As far as squatter's rights go, Mr. Chairman, we in agriculture are interested in every single advantage we can possibly get—no reflection on our cohorts here at the table or elsewhere in the United States, but certainly it is true all over the world.

Mr. Chairman, I certainly commend you and your associates for this hearing. It is extremely helpful to you. It gives all the world an indication that the United States, through the legislative branch and also through the administrative branch, is very serious about the forthcoming Ministerial talks that will be coming up on the 25th of November.

I think it focuses on a matter that is extremely important to American agriculture. Two out of five acres today produce for export. As to the details of what will come up on the Ministerial agenda, this is in the process of being worked out.

We in Agriculture, of course, are most attentive to you and your committee, your associates in Congress. In addition, next month we anticipate the meeting of the Agricultural Advisory Committee on Trade. We anticipate the meeting of several agricultural technical advisory committees on trade. These are based on commodities. We look forward to their input.

One of the hallmarks and, I think, strengths of this administration is that all of us are working together and certainly we all subscribe to the remarks that Ambassador Brock put so well a few minutes ago. In general, I would say that we in Agriculture are emphatic in our desire to proceed along the lines that would consider agriculture along the same procedures as other trade items.

Here we have reference to the subsidies code, we have reference to the safeguards code, we have reference to the standards and so on. Agriculture does not need to be differentiated. Agriculture needs to be considered exactly along the same line as other industrial and other trade items.

Some say that agriculture should be treated separately. These people neglect to note that history says agriculture treated separately means U.S. agriculture denied opportunities to feed children, women, and men throughout the world.

I would point out, as has been mentioned here earlier, the urgency of this matter. The time for reviewing studies, for recalling conversations, and revising unsatisfactory arrangements is time we in American agriculture cannot afford. The time is now to establish procedures along the lines mentioned above—namely, considering agriculture the same as other trade items—the time is now for bringing further liberalization and we hope to develop a work program that combines all segments of trade as our Government improves the various trade understandings.

Mr. Chairman, again our compliments to you and your associates for this hearing and I would certainly be very happy to try to respond to any questions that you might have.

Senator **Danforth**. Thank you. Mr. Lodwick.

[The prepared statement of Mr. Lodwick follows:]

Statement by Seeley Lodwick, Under Secretary
for International Affairs and Commodity Programs
United States Department of Agriculture
before the Senate Committee on Finance,
Subcommittee on International Trade
March 1, 1982

A basic U.S. objective at the GATT Ministerial will be to establish a work program for the 1980's aimed at bringing about further trade liberalization.

At this point, it is our view that Agriculture should be a full participant in that program.

There are, for example, problems with the exisiting rules on subsidies that go beyond agriculture. The United States would like a stronger discipline over some kinds of research and development activities. We need clearer rules on the obligations to be undertaken by developing countries. All of these problems relate to the GATT Subsidies Code, so it makes sense to talk about them together.

Or take the case of standards, where we are concerned that the existing code be recognized to cover problems tied to production methods as well as products. While this is an important problem for agriculture, it affects industry too.

The GATT Secretariat has made a study of all the ways exisiting GATT rules apply to agriculture and how those rules are different from the rules that apply to industrial products. It has been suggested that we review this study to see to what extent countries are willing to narrow the gap between agricultural and industrial rules.

It seems to us that a more productive approach would be to examine the rules where the problems are. That is, if we can reach agreement to do so, it would be better to deal with agriculture as an important aspect of other issues on the agenda — subsidies, standards, safeguards, and so on.

While nothing has yet been agreed on in Geneva as to procedures, the most commonly expressed view is that there ought to be an Agriculture Committee. Such a committee would look at national agricultural policies to expose their impact on international trade, and look at GATT rules on trade in agricultural products and see where the rules can be strengthened.

If this Agriculture Committee became the center of negotiations regarding problems in agricultural trade, or if it were used as a shield to bar consideration of agricultural trade problems in other committees, such as a subsidies committee, we believe that the United States would get bogged down, as it has before, in an unproductive exercise in discussion.

We have had Agriculture Committees before in the GATT. They have examined national policies and they have catalogued problems, but they were never able to find any solutions to the problems discussed.

In short, we would be better off attempting to solve problems topic by topic, not by saying: "Agriculture is a problem." Agriculture is not a problem; it has problems as do other sectors.

STATEMENT OF HON. ROBERT D. HORMATS, ASSISTANT SECRETARY OF STATE FOR ECONOMIC AND BUSINESS AFFAIRS

Mr. HORMATS. Thank you, Mr. Chairman. I would like to spend a few minutes discussing some of the broader problems in the trading system and some of the structural problems which now face it.

First, I would agree with my colleagues before me, that preparations for this meeting are taking place at a very critical time for the world trading system. I need not describe to this committee the difficult problems that most economies in the developed and developing world are facing, and I need not describe in great detail the sorts of trade problems which exist and are exacerbated by the current domestic difficulties in management of most economies in the world.

Because of the problems that have faced the system and because of the particularly sensitive period in which we find ourselves, I think it a time for fresh thinking and forward-looking approaches; I commend the committee for holding these hearings, and also welcome the fact that Congress is open to fresh debate on the fundamentals of U.S. trade policy.

A number of pieces of legislation are now pending before the Congress which make an important contribution to that debate, as does this hearing on the Ministerial.

First, let me just describe briefly—and I think the committee knows it well—the role the GATT has played as an important vehicle in developing rules and understandings in the international trading system and in leading toward a more open trading system, primarily through reductions in tariff barriers.

However, central to the successful operation of the GATT is the maintenance of an equitable balance of rights and obligations which provide for resolving trade problems through procedures based on rules, rather than on tests of political strength. The balance is crucial to the preservation of the consensus on which the system ultimately depends.

The institution would rapidly become irrelevant and lose support if major trading nations did not regard the rules as equitable and did not feel that others were faithfully adhering to them. Similarly, if countries continue to regard being taken to the GATT as a political affront, as opposed to a fair way of resolving an issue, and major trading countries continue to resolve problems outside the GATT, it will become an institution which tends to concentrate on smaller problems of smaller countries. That will weaken it further.

I think it is important to recall that the GATT, along with the IMF and the World Bank, have played a vital role in strengthening the trading system and in giving rise to an increased flow of trade and investment which have, along with domestic economic growth, contributed to a long, sustained period of rapid, broadly based economic growth among most developed countries—since World War II—perhaps the most sustained and dramatic period of economic growth in world history, U.S. exports have expanded quite dramatically and my written testimony goes into that.

In addition, there has been a major increase in the number of U.S. jobs which depend on exports. In 1980 there were about 2.8 million export-related jobs in the manufacturing sector, 13.8 percent of the work force. This is compared to about 1.1 million export-related jobs, 6.4 percent of the manufacturing work force, in 1963.

Exports have been a particularly important element in the U.S. economy and this makes it all the more important that we both increase export opportunities and insure, through a fair and open trading system, that we have the opportunity to export those goods in which we have a strong comparative advantage.

I have also, in my written testimony, given some sense of the problems we face in volatility of international trade because of differential growth rates and movements in exchange rates. It is important to add that while we have major problems in the openness of the trading system, some of the cyclical changes between surplus and deficit relate very largely to changes in exchange rates and changes in differential rates of growth. Slow U.S. growth and fast growth abroad tends to increase exports; the reverse tends to reduce our trade balance somewhat, as does an overvalued dollar or a strong dollar.

However, recognizing these cyclical changes, there are still a variety of distortions in the international trading system and while the GATT has made progress in resolving some of these, it has not dealt with a number of others. The real difficulty, I think, is that we have today a number of nontariff barriers in the trading system which the GATT rules do not cover, and these tend to lead to pressures for unilateralism or bilateralism.

One of the major objectives of the GATT meeting that is coming up is to set in process an examination of those barriers and to figure out how the GATT can address them and develop new rules and new arrangements in the multilateral trading system, because if there are no rules that cover such things as safeguards, services and investment, then increasingly countries are going to look to unilateral or bilateral action to resolve their problems.

At the same time, I think we need to take a fundamental look at the actual workings of the GATT itself. It is quite clear to me that the GATT itself really today faces an institutional crisis: One, because it does not cover a number of things such as nontariff barriers, particularly in trade in services and investment, but in other areas as well, and, two, because in many instances it really has not been used very well and when it has been used, it has not proceeded as smoothly as it should to deal with differences.

A lot of countries today, as I mentioned, simply do not use the GATT at all and some countries—particularly Europe—feel that when they are taken to the GATT it is a major political confrontation rather than something that we would regard as tantamount to a judicial process.

I think that over the long run we also have to address a fundamental point which has been touched on and, perhaps, is the genesis of the thinking in some of the legislation that has been introduced, including by you, Mr. Chairman. In this overall debate there in the question of whether, absent adequate rules—one country perceives its exporters harmed by the nontariff barriers of another, it is justified in taking measures to secure redress by limiting access on a non-MFN basis of that other country's products into its market or denying that country some other benefit.

Have we come to the point where that approach is appropriate and/or necessary. If so, is it more appropriate or necessary in such areas as services and investment, which are not covered by the GATT, than for goods which have traditionally been covered by multilateral solutions? Or, can international rules and procedures be agreed upon so that countries, assuming that several are affected by the same nontariff barrier, can obtain their redress from the country imposing that barrier?

Can a process be set up for resolving those types of differences within a GATT framework which provides for multilateral scrutiny even while new rules are being developed? This seems to me to be a fundamental issue at this point because unless the GATT is able to extend the coverage of its rules, I can see more and more pressure to take actions of a unilateral or bilateral nature which would add a new dimension to the international trading system.

I would just simply conclude with a few general points, following up those of Ambassador Brock. One is that we need to address the unfinished business of the last negotiations, first in the area of safeguards because it seems to me safeguards is the one area where the GATT is working worst, or least well, shall we say.

There clearly is a gap here. The fact that the safeguards system is not utilized encourages countries to go their own way. It seems to me that that ought to be a very high priority for the meeting; maybe something can be done before the Ministerial meeting. If not, the Ministerial should try to establish some strict deadline.

Agriculture, as Under Secretary Lodwick has indicated, is another area that has resisted GATT coverage. It strikes me that it is particularly important for this Ministerial to get a handle on agricultural issues and try to find some way either of developing better rules or better understandings for applying existing rules.

The lesson of the last trade negotiations is that we tend to deal with issues of the moment; sometimes, 2 or 3 years later, we wake up and new sets of problems are on the horizon, not addressed by the past negotiations.

This negotiation, in addition to dealing with the current issues, ought to have built into it some sense of anticipation of the new problems which are going to be hitting us most directly in the 1980's and 1990's. Trade-in services is one of those.

This is a very complex area. It is going to be difficult to negotiate. It is even, in some cases, difficult to define how to address them. But we have to find out, and we must determine, as a result of these discussions, whether and how it would be appropriate to enter into negotiations to establish principles and rules governing specific types of services, including the possible amendment of some existing codes to apply to services.

To conclude, investment-related trade distortions are a particularly important problem. More and more investment policy is being used as a way of influencing exports or reducing imports; clearly this has to be addressed and some means of getting it under control has to be worked out.

We have to realize that in the past years it has taken a long time to develop the consensus necessary to make a negotiating process worthwhile. It is fair today to describe a consensus about what we want to negotiate and where we want to go as being almost nonexistent internationally; it is probably a little further along but not totally developed domestically.

But that is particularly important. In the last several years before the last GATT negotiation, there was a great deal of work done privately and publicly to develop that consensus, both within the United States and among other countries. It strikes me that one possibility for this Ministerial meeting, in addition to dealing with the current issues that I have indicated, is to set up a 1- or 2-year work program covering agriculture, services and investment and other areas if they cannot be negotiated in the near term.

In those areas its objective could be to clarify problems and decide how best to resolve them and then, without detracting from the importance of the first one, have another Ministerial meeting to address and set up a negotiating schedule for those issues which cannot be negotiated today.

This strikes me as something that is particularly important to do because there may be items that cannot be negotiated now. We should not let the system off the hook. We have to establish a timetable and hold countries to it.

Thank you, Mr. Chairman.

Senator DANFORTH. Thank you. Mr. Leland.

[The prepared statement of Mr. Hormats follows:]

Testimony of Robert D. Hormats
Assistant Secretary of State
for Economic and Business Affairs
Before the Subcommittee on International Trade
of the Senate Finance Committee
March 1, 1982

The GATT Ministerial

Mr. Chairman:

I welcome this opportunity to discuss plans and prospects for the GATT Ministerial that will take place in November.

Preparations for this meeting are under way at a critical time for the world trading system. Slow economic growth, high and rising unemployment and rapid shifts in competitive position among nations and sectors have increased trade tensions among nations and proctectionist pressures within them. There is a growing sense in this country that while the United States has relatively few import barriers our exporters face a variety of barriers which impede and frustrate the access of their products to foreign markets. At the same time, economic weakness

IS MAKING IT DIFFICULT FOR MANY GOVERNMENTS TO MAKE HARD POLITICAL CHOICES THAT WOULD IMPROVE THE ADJUSTMENT CAPABILITIES OF THEIR ECONOMIES, REDUCE BARRIERS WHICH PROTECT PARTICULAR SECTORS FROM INTERNATIONAL COMPETITION, OR REMOVE TRADE DISTORTING SUBSIDIES AND OTHER EXPORT INCENTIVES.

THIS IS A TIME FOR FRESH THINKING AND FORWARD LOOKING APPROACHES. I WELCOME THE FACT THAT CONGRESS HAS OPENED A FRESH DEBATE ON THE FUNDAMENTALS OF U.S. TRADE POLICY. A NUMBER OF PIECES OF LEGISLATION ARE NOW PENDING BEFORE THE CONGRESS WHICH MAKE AN IMPORTANT CONTRIBUTION TO THAT DEBATE. SO TOO IS THIS HEARING ON THE GATT MINISTERIAL.

THE BENEFITS OF THE POSTWAR TRADING SYSTEM

THE GATT -- WITH ITS EMPHASIS ON MULTILATERAL, NONDISCRIMINATORY REDUCTION OF TRADE BARRIERS -- WAS DESIGNED TO PREVENT A RECURRENCE OF THE SELF-DESTRUCTIVE TRADE POLICIES OF THE 1930'S. THESE POLICIES NOT ONLY AGGRAVATED THE DESPERATE ECONOMIC CONDITIONS OF THAT PERIOD, BUT ALSO CONTRIBUTED TO MAJOR POLITICAL FRICTION. THE GATT EMBODIES MUTUALLY AGREED RULES TO PROMOTE STABILITY AND PREDICTABILITY IN TRADE RELATIONS. IT

HELPS PRODUCE A MEASURE OF CERTAINTY IN THE ENVIROMENT THAT MANUFACTURERS, FARMERS AND TRADERS NEED TO PLAN AND INVEST.

CENTRAL TO THE SUCCESSFUL OPERATION OF THE GATT IS THE MAINTENANCE OF AN EQUITABLE BALANCE OF RIGHTS AND OBLIGATIONS, WHICH PROVIDE FOR RESOLVING TRADE PROBLEMS THROUGH PROCEDURES BASED ON RULES RATHER THAN TESTS OF POLITICAL STRENGTH. THIS BALANCE IS CRUCIAL TO THE PRESERVATION OF THE CONSENSUS ON WHICH THE SYSTEM ULTIMATELY DEPENDS. THE INSTITUTION WOULD RAPIDLY BECOME IRRELEVANT AND LOSE SUPPORT IF MAJOR TRADING NATIONS DID NOT REGARD THE RULES AS EQUITABLE, AND DID NOT FEEL THAT OTHERS WERE FAITHFULLY ADHERING TO THEM. SIMILARLY, IF COUNTRIES CONTINUE TO REGARD BEING TAKEN TO THE GATT AS A POLITICAL AFFRONT, AS OPPOSED TO A FAIR WAY OF RESOLVING AN ISSUE, AND MAJOR TRADING COUNTRIES CONTINUE TO RESOLVE MAJOR PROBLEMS OUTSIDE THE GATT, LEAVING IT TO CONCENTRATE ON SMALLER PROBLEMS OF SMALLER COUNTRIES, IT WILL ALSO BE WEAKENED.

AT A TIME WHEN THE WORLD TRADING SYSTEM AND THE GATT ARE UNDER SEVERE STRAIN, IT IS WELL TO RECALL THE BENEFITS WHICH THE POST-WAR MULTILATERAL TRADING SYSTEM HAS BROUGHT IN THE POST-WAR WORLD. THE GATT, TOGETHER

WITH THE INTERNATIONAL MONETARY FUND AND THE WORLD BANK, HAS PROVIDED THE UNDERPINNING FOR AN UNPARALLELED EXPANSION OF TRADE AND INTERNATIONAL INVESTMENT, AND THE LONGEST PERIOD OF SUSTAINED, RAPID AND BROADLY BASED ECONOMIC GROWTH IN HISTORY. THIS CONTRIBUTED SUBSTANTIALLY TO RISING EMPLOYMENT, RISING PRODUCTION, AND RISING LEVELS OF PERSONAL WELL-BEING IN THE U.S. AND OTHER MAJOR TRADING NATIONS.

BETWEEN 1950 AND 1980 TOTAL U.S. EXPORTS OF MERCHANDISE GREW FROM 10.2 BILLION DOLLARS TO 224.0 BILLION. EXPORTS OF AGRICULTURAL COMMODITIES GREW FROM 2.9 BILLION TO 41.2 BILLION OVER THE SAME PERIOD. IN VOLUME TERMS, OUR EXPORTS OF MERCHANDISE INCREASED AT AN AVERAGE COMPOUND RATE OF ABOUT 6 PERCENT PER YEAR, COMPARED TO A RATE OF INCREASE IN REAL GNP OF 3.5 PERCENT OVER THE SAME PERIOD. BY 1980 THERE WERE 2.8 MILLION EXPORT-RELATED JOBS IN MANUFACTURING, 13.8 PERCENT OF THE WORKFORCE IN THIS SECTOR AS COMPARED TO 1.6 MILLION EXPORT RELATED JOBS, 8.2 PERCENT OF THE MANUFACTURING LABOR FORCE IN 1970, AND COMPARED TO 1.1 MILLION EXPORT-RELATED JOBS IN MANUFACTURING, 6.4 PERCENT OF THE MANUFACTURING

WORKFORCE IN 1963. TODAY IN THE U.S., EXPORTS OF GOODS AS A SHARE OF GNP ARE NEARLY 8 PERCENT, ROUGHLY DOUBLE WHAT THEY WERE A DECADE AGO. COUNTING GOODS AND SERVICES THE TOTAL IS 12 PERCENT. FOR THE DEVELOPED COUNTRIES AS A WHOLE, MERCHANDISE EXPORTS ARE ABOUT 16 PERCENT, AMOUNTING TO 1.4 TRILLION DOLLARS. THE INCREASING IMPORTANCE OF TRADE FOR GROWTH, EMPLOYMENT AND CONSUMER WELL-BEING SUGGESTS THAT THE NEED FOR A RESILIENT TRADE SYSTEM IS GREATER THAN EVER.

OTHER INFLUENCES ON THE INTERNATIONAL TRADING SYSTEM

IT IS ALSO USEFUL TO RECALL, WITHOUT CHALLENGING THE FACT THAT THE GATT AND THE TRADING SYSTEM FACE MAJOR PROBLEMS, THAT OTHER FORCES ARE ALSO AT PLAY IN THE TRADING ARENA. DIFFERENTIAL RATES OF ECONOMIC GROWTH, PRODUCTIVITY -- AND CHANGES IN EXCHANGE RATES -- ARE IMPORTANT INFLUENCES ON TRADE. STATISTICALLY, MOVEMENTS IN ECONOMIC ACTIVITY HERE AND ABROAD AND IN THE EFFECTIVE EXCHANGE RATE OF THE DOLLAR HAVE ACCOUNTED FOR ABOUT 95 PERCENT OF THE VARIATION IN THE VOLUME OF U.S. EXPORTS AND IMPORTS OF MERCHANDISE OVER THE PERIOD 1970-1981. ECONOMETRIC ANALYSIS SUGGESTS THAT A ONE-PERCENT CHANGE IN INDUSTRIAL PRODUCTION IN WESTERN EUROPE, JAPAN, AND CANADA IS ASSOCIATED WITH A 1.4 PERCENT CHANGE IN THE

VOLUME OF U.S. MERCHANDISE EXPORTS, WHILE A ONE-PERCENT CHANGE IN INDUSTRIAL PRODUCTION IN THE UNITED STATES LEADS TO A 1.7 PERCENT CHANGE IN THE VOLUME OF OUR IMPORTS. IN ADDITION, A ONE-PERCENT CHANGE IN THE EFFECTIVE EXCHANGE RATE OF THE DOLLAR LEADS TO ABOUT A 1.2 PERCENT CHANGE IN THE VOLUME OF OUR EXPORTS, AND A ONE-HALF-OF-ONE PERCENT CHANGE IN THE VOLUME OF OUR IMPORTS. THE ATTACHED CHART SHOWS YOU HOW U.S. TRADE BALANCES HAVE RESPONDED (WITH SOME LAG) TO CHANGES IN THE EXCHANGE RATES OVER THE PAST TWO DECADES.

THE PROBLEMS

RECOGNIZING THE IMPORTANCE OF THESE FACTORS ON TRADE FLOWS, HOWEVER, DOES NOT MASK THE FACT THAT A VARIETY OF DISTORTIONS TO INTERNATIONAL TRADE PLAGUE THE WORLD ECONOMY. IN MANY SECTORS FREE TRADE IS MORE A MYTH THAN A REALITY. THE GATT HAS ACHIEVED MAJOR SUCCESS IN PROMOTING A DRAMATIC REDUCTION IN TARIFFS, TO THE POINT THAT IN MOST SECTORS THESE ARE NOW OF MINIMAL IMPORTANCE AS A BARRIER TO TRADE AMONG DEVELOPED COUNTRIES. BUT AS TARIFFS HAVE BEEN LOWERED MORE COMPLEX AND TROUBLESOME OBSTACLES HAVE BECOME PROMINENT.

DURING THE LAST TWO DECADES, THERE HAS BEEN INCREASING PRESSURE ON GOVERNMENTS TO PURSUE DISTRIBUTIONAL POLICIES TO HELP THOSE WHO HAVE NOT PARTICIPATED AS FULLY IN THE BENEFITS OF PROSPERITY, AND TO WORK TOWARD OTHER SOCIAL AND ENVIRONMENTAL GOALS. MEASURES TO MAINTAIN EMPLOYMENT AND CUSHION THE IMPACT OF INFLATION HAVE TAKEN A VARIETY OF FORMS. IN SOME COUNTRIES DIRECT SUBSIDIES HAVE BEEN GRANTED TO INDUSTRIES AND FARMS THROUGH SECTORAL OR REGIONAL PROGRAMS. WEAK INDUSTRIES AND INEFFICIENT AGRICULTURAL PRODUCERS HAVE BEEN GIVEN PROTECTION AGAINST FOREIGN COMPETITION OFTEN THROUGH NON-TARIFF MEASURES. IN SOME CASES, EVEN ENTERPRISES THAT ARE HIGHLY COMPETITIVE HAVE BEEN PROTECTED IN THEIR HOME MARKETS THROUGH A COMPLEX ARRAY OF BARRIERS.

THE SCOPE OF GOVERNMENT INVOLVEMENT IN DOMESTIC ECONOMIES BROADENED DURING THE 1970'S, WHEN INCREASING INFLATION WAS EXACERBATED BY SHARP OIL PRICE INCREASES. THE INDEXATION OF WAGES AND SAVINGS INSTRUMENTS, THE USE OF EXPORT SUBSIDIES TO OFFSET COST INCREASES, THE REGULATION OF PRICES, PARTICULARLY OF OIL AND PETROLEUM PRODUCTS, WERE MEASURES INCREASINGLY RESORTED TO IN ORDER TO INSULATE ECONOMIES FROM THE IMPACT OF INFLATION OR THE NEED TO ADJUST TO CHANGES IN PRICES AND TO COMPETITION.

THIS EXPANDING ROLE OF GOVERNMENTS IN PURSUIT OF DOMESTIC SOCIAL AND ECONOMIC POLICIES HAS CONTRIBUTED TO STRUCTURAL RIGIDITIES IN NATIONAL ECONOMIES. THIS IN TURN HAS COMPLICATED THE JOB OF ACHIEVING NON-INFLATIONARY GROWTH AND MADE IT MORE DIFFICULT FOR ECONOMIES TO ADJUST TO CHANGES IN INTERNATIONAL COMPETITION, GENERATING STILL GREATER PRESSURES FOR PROTECTION AND SUBSIDY.

OVER THE LAST DECADE, A GROWING AND VARIED NETWORK OF NON-TARIFF BARRIERS HAS EMERGED. MANY OF THESE ARE NOT COVERED BY THE GATT. IT IS FREQUENTLY DIFFICULT TO IDENTIFY THESE BARRIERS, MUCH LESS MEASURE AND NEGOTIATE A REDUCTION OR ELIMINATION OF THEIR IMPACT ON TRADE. EFFORTS TO NEGOTIATE THEIR REMOVAL OFTEN RUN AFOUL OF THE DOMESTIC SOCIAL POLICIES OF WHICH THEY FORM A PART. IT IS BECAUSE OF THEIR LINK WITH THESE POLICIES THAT NTB'S HAVE BEEN SO DIFFICULT TO NEGOTIATE AWAY.

THE RISE OF NON-TARIFF BARRIERS POSES A MAJOR CHALLENGE TO THE TRADING SYSTEM AND TO THE GATT. GATT NEGOTIATIONS HAVE HEAVILY FOCUSSED ON LOWERING TARIFFS; ITS RULES HAVE ADDRESSED MAINLY SITUATIONS IN WHICH, BECAUSE OF DUMPING OR SUBSIDIES, ONE

NATION'S EXPORTS WERE INJURING FIRMS OR WORKERS IN ANOTHER, OR IN WHICH SURGES OF IMPORTS WERE CAUSING INJURY. REMEDIES FOR IMPAIRMENT OF RIGHTS, UNFAIR TRADE PRACTICES, OR INJURIOUS SURGES WERE WORKED OUT WITHIN THE GATT OR IN CONFORMITY WITH ITS RULES.

YET AS RULES APPEAR NOT TO COVER A GIVEN PROBLEM, THERE IS A TENDENCY TO BYPASS THE GATT AND EITHER SEEK BILATERAL SOLUTIONS TO REMOVE THE OFFENDING PRACTICE OF THE OTHER COUNTRY OR UNILATERALLY REDRESS THE OFFENSE. BECAUSE MANY NON-TARIFF BARRIERS -- PARTICULARLY THOSE RELATED TO SERVICES AND INVESTMENT -- ARE NOT COVERED BY GATT RULES OR PROCEDURES, PRESSURES FOR BILATERAL OR UNILATERAL REMEDIES GROW.

AND INTO THIS DEBATE COMES THE QUESTION -- ABSENT ADEQUATE RULES -- AS TO WHETHER, IF ONE COUNTRY PERCEIVES ITS EXPORTERS HARMED BY THE NON-TARIFF BARRIERS OF ANOTHER, IT IS JUSTIFIED IN TAKING MEASURES TO SECURE REDRESS BY LIMITING ACCESS, ON A NON-MFN BASIS, OF THAT COUNTRY'S PRODUCTS INTO ITS MARKET OR DENYING THAT COUNTRY SOME OTHER BENEFIT.

HAVE WE COME TO THE POINT WHERE THAT APPROACH IS APPROPRIATE AND/OR NECESSARY? AND IF SO, IS IT MORE APPROPRIATE OR NECESSARY IN SUCH AREAS AS SERVICES AND INVESTMENT WHICH ARE NOT COVERED BY THE GATT, THAN FOR GOODS, WHICH HAVE TRADITIONALLY BEEN COVERED BY MULTILATERAL SOLUTIONS? OR CAN INTERNATIONAL RULES AND PROCEDURES BE AGREED UPON SO THAT COUNTRIES -- ASSUMING THAT SEVERAL ARE AFFECTED BY THE SAME NON-TARIFF BARRIER -- CAN OBTAIN THEIR REDRESS FROM THE COUNTRY IMPOSING THE BARRIER. CAN A PROCESS BE SET UP FOR RESOLVING THOSE TYPES OF DIFFERENCES WITHIN A GATT FRAMEWORK, WHICH PROVIDES MULTILATERAL SCRUTINY EVEN WHILE NEW RULES ARE DEVELOPED?

THE GATT MINISTERIAL

GIVEN THE COMPLEX PROBLEMS BEFORE US AND OUR ECONOMIC STAKE IN A HEALTHY TRADE SYSTEM, THE GATT MINISTERIAL TAKES ON A SPECIAL IMPORTANCE. THE LACK OF A CONSENSUS ON MANY ISSUES WITHIN AND AMONG DEVELOPED COUNTRIES, OR BETWEEN DEVELOPED AND DEVELOPING COUNTRIES, MEANS THAT THIS MEETING -- AS AMBASSADOR BROCK HAS STATED -- IS THE ESSENTIAL BEGINNING OF A NECESSARY PROCESS.

FIRST, WE NEED TO IDENTIFY THE NATURE OF THE PROBLEMS FACING THE TRADING SYSTEM AND TO DETERMINE WHERE THE GATT IS WORKING WELL AND WHERE IT IS NOT. ARE THE CURRENT RULES AND RECENTLY NEGOTIATED CODES BEING FAIRLY AND EFFECTIVELY IMPLEMENTED? ARE WE USING THE GATT AS OFTEN AS WE SHOULD? WHY HAS THERE BEEN AN INCREASING TENDENCY TO SEEK SOLUTIONS OUTSIDE ITS FRAMEWORK AND RULES? A STRONGER, MORE CREDIBLE AND MORE EFFECTIVE GATT REQUIRES BOTH IMPROVEMENTS IN THE INSTITUTION AND IN THE WAY COUNTRIES USE AND SUPPORT IT. BOTH SHOULD BE PRIMARY ISSUES IN NOVEMBER.

OF PARTICULAR IMPORTANCE IS A RECOGNITION THAT THE CURRENT SAFEGUARDS SYSTEM IS NOT WORKING AND THAT A PROMPT ACCELERATION OF EFFORTS TO REACH AGREEMENT IS NECESSARY. THE INCREASING LACK OF DISCIPLINE ON SAFEGUARD ACTIONS TAKEN TO RESTRICT IMPORTS, WHICH WE SEE IN THE PROLIFERATION OF BILATERAL ARRANGEMENTS CONCLUDED OUTSIDE THE GATT FRAMEWORK, IS A SERIOUS THREAT TO THE TRADING SYSTEM. THE LACK OF INTERNATIONAL SCRUTINY IS PARTICULARLY FRUSTRATING FOR THE U.S. AS OTHER COUNTRIES OFTEN TAKE ACTION WITHOUT THE BENEFIT OF THE SORT OF OPEN PROCEDURES WHICH CHARACTERIZE OUR SYSTEM. AN AGREEMENT ON SAFEGUARDS, WHICH ELUDED NATIONS IN THE TOKYO ROUND, SHOULD BE REACHED SOON, IF POSSIBLE, EVEN BEFORE THE MINISTERIAL. IF NOT, THE MINISTERIAL SHOULD SET A TARGET FOR REACHING AGREEMENT.

ARTICLE XIX SHOULD BECOME A CREDIBLE INSTRUMENT WHICH CAN PROVIDE A FRAMEWORK FOR NATIONAL ACTIONS, SUBJECTING THEM TO INTERNATIONAL SURVEILLANCE AND PHASE-OUT REQUIREMENTS. IF SELECTIVITY IS TO BE CONSIDERED, ITS APPLICATION SHOULD BE TIGHTLY LIMITED AND STRICTER PHASE-OUT REQUIREMENTS SHOULD BE APPLIED.

AGRICULTURE IS ANOTHER AREA THAT HAS RESISTED ADEQUATE GATT COVERAGE. EVEN WITH AGREEMENT ON THE SUBSIDIES CODE, AGRICULTURE HAS NOT BEEN BROUGHT UNDER GATT DISCIPLINE TO THE SAME EXTENT AS TRADE IN MANUFACTURED GOODS. DIFFERENCES BETWEEN THE U.S. AND THE EUROPEAN ECONOMIC COMMUNITY OVER AGRICULTURAL POLICY HAVE RECENTLY BECOME ACCENTUATED, HIGHLIGHTING THE NEED FOR BETTER GATT RULES OR AT LEAST CLEARER UNDERSTANDINGS ABOUT THE APPLICATION OF EXISTING RULES FOR AGRICULTURE. WHILE THE MINISTERIAL ITSELF IS NOT LIKELY TO REACH ANY AGREEMENT ON NEW RULES, IT COULD LEAD TO IMPROVED UNDERSTANDINGS AND ESTABLISH A FRAMEWORK WITHIN WHICH RULES CAN BE DEVELOPED.

IN ADDITION WE NEED TO RECOGNIZE THAT NEW PROBLEMS IN THE TRADING AREA CAN, IF NOT BROUGHT UNDER SOME INTERNATIONAL SCRUTINY OR DISCIPLINE, CAUSE A WEAKENING OF THE ENTIRE TRADING SYSTEM. IF WE HAVE MADE A MISTAKE

IN PREPARATIONS FOR PAST TRADE NEGOTIATIONS, IT WAS IN PREOCCUPATION WITH PROBLEMS OF THE MOMENT, ONLY TO FIND THAT AT THE CONCLUSION OF THE NEGOTIATIONS WE FACED NEW UNANTICIPATED PROBLEMS. THEN, IN ADDITION TO RESOLVING THE CURRENT ISSUES BEFORE US, THE FORM OF WORK COMING OUT OF THE NOVEMBER MINISTERIAL SHOULD ALSO CONCENTRATE ON THE TRADE DISTORTION WHICH, IF NOT ADDRESSED NOW, WILL PLAGUE US IN THE LATE 1980'S AND THE 1990'S. IN THIS RESPECT, WE NEED TO BETTER UNDERSTAND, AND SET UP A WORK PROGRAM FOR, THE PROBLEMS FACING THE INTERNATIONAL TRADING SYSTEM IN AREAS SUCH AS SERVICES AND INVESTMENT WHICH ARE NOT COVERED BY GATT ARTICLES OR MTN CODES.

SERVICES ARE PARTICULARLY IMPORTANT TO THE U.S. ECONOMY BUT ALSO TO THE ECONOMIES OF OUR TRADING PARTNERS. FOR EXAMPLE, IN THE UNITED STATES APPROXIMATELY 27 PERCENT OF THE LABOR FORCE IS EMPLOYED IN THE SERVICE SECTOR. SERVICE SECTOR EMPLOYMENT ACCOUNTS FOR ABOUT 28 PERCENT OF THE LABOR FORCE IN THE UNITED KINGDOM, 28 PERCENT IN SWEDEN, 32 PERCENT IN FRANCE AND 24 PERCENT IN JAPAN. SERVICES ENCOMPASS A BROAD RANGE OF CATEGORIES FROM BANKING, TO INSURANCE, TO DATA PROCESSING AND CONSTRUCTION. SOME SERVICE ISSUES CONCERN THE RIGHT OF ESTABLISHMENT, OTHERS INVOLVE THE FLOW OF INFORMATION OR PEOPLE ACROSS BORDERS, SOME ARE REGULATED BY STATES OR

REGIONAL ENTITIES RATHER THAN NATIONAL GOVERNMENTS. MUCH WORK IS NEEDED TO DEFINE PRECISELY WHAT WE WANT TO NEGOTIATE, HOW WE WANT TO NEGOTIATE IT (BILATERALY, IN SMALL GROUPS, IN AN MTN SETTING), AND THE DEGREE TO WHICH EXISTING RULES ARE ADEQUATE OR NEW RULES ARE REQUIRED TO ACHIEVE GREATER HARMONY OR DISCIPLINE. CLEARLY, PROGRESS MUST BE MADE. WE SHOULD DETERMINE AS THE RESULT OF THIS WORK WHETHER AND HOW IT WOULD BE APPROPRIATE TO ENTER INTO NEGOTIATIONS TO ESTABLISH PRINCIPLES AND RULES GOVERNING SPECIFIC TYPES OF SERVICES, INCLUDING THE POSSIBLE AMENDMENT OF SOME EXISTING CODES TO APPLY TO SERVICES.

INVESTMENT RELATED TRADE DISTORTIONS STEM FROM THE DESIRE OF COUNTRIES TO USE INVESTMENT TO INCREASE DOMESTIC JOBS OR LIMIT IMPORTS THROUGH LOCAL CONTENT REQUIREMENTS, OR TO ESTABLISH MANDATORY EXPORT REQUIREMENTS. OTHER ISSUES RELATE TO THE RIGHT OF ESTABLISHMENT FOR BANKS, INSURANCE COMPANIES, RETAILERS, ETC. THESE ARE NOT TRADITIONAL GATT ISSUES, BUT THE GROWING IMPACT OF THESE PRACTICES ON TRADE WARRANT CONSIDERATION BY THE MINISTERIAL.

THE IMPORTANCE OF TRADE IN HIGH TECHNOLOGY REQUIRES THAT TRADE IN THIS SECTOR REMAIN OPEN AND FAIR. THERE IS A TENDENCY TOWARD NATIONAL AIDS' TO SUPPORT PROMISING

INDUSTRIES. THESE TEND TO DISTORT TRADE AND OFTEN SHIELD FIRMS FROM THE COMPETITION WHICH HAS SO OFTEN BEEN THE INDUCEMENT TO INNOVATION. RAPID MARKET PENETRATION IN SOME MARKETS HAS BEEN A SOURCE OF FRICTION. THE MINISTERIAL SHOULD AGREE ON GATT STUDIES FOR PROCEDURES TO AVOID DOMESTIC DISTORTIONS TO HIGH TECHNOLOGY TRADE, PARTICULARLY IN THE AREAS OF GOVERNMENT PROCUREMENT, TRANS-BORDER DATA FLOWS, AND SUBSIDIES.

IN ORDER TO PAVE THE WAY FOR THE MINISTERIAL AND FOR FUTURE NTB NEGOTIATIONS AND A WORK PROGRAM ON INVESTMENT PROBLEMS, THE MINISTERIAL MUST BE PRECEEDED BY A CLOSE DIALOGUE WITH THE DEVELOPING COUNTRIES, AND SHOULD LEAD TO GREATER PARTICIPATION BY THESE NATIONS IN THE TRADING SYSTEM. THE OBVIOUS AREA FOR TRADE-OFFS -- ACCEPTANCE BY DEVELOPING COUNTRIES OF GREATER OBLIGATIONS UNDER THE GATT AND REDUCED IMPORT BARRIERS -- IN EXCHANGE FOR GREATER PREDICTABILITY AND EXPANSION OF ACCESS TO DEVELOPED COUNTRY MARKETS -- MAY BE DIFFICULT TO EXPLORE UNDER CURRENT ECONOMIC CONDITIONS. BUT THE MINISTERIAL SHOULD LEND ITS SUPPORT TO SUCH DISCUSSIONS.

RECOGNIZING THAT ALL PROBLEMS CANNOT BE RESOLVED AT ONCE, THE MINISTERIAL SHOULD SET IN MOTION A PROCESS WHICH WILL ENSURE CERTAIN AND STEADY PROGRESS SO THAT BY

THE END OF THE DECADE THERE WILL BE AGREED RULES TO COVER THE NUMEROUS AREAS WHERE THEY DO NOT AT PRESENT EXIST OR ARE INADEQUATE. THE CREDIBILITY OF THE INSTITUTION AND THE TRADING SYSTEM WILL DEPEND ON OUR BRINGING A VARIETY OF TRADE PRACTICES UNDER INCREASING INTERNATIONAL DISCIPLINE OR SCRUTINY.

ONE POSSIBILITY IS FOR THE MINISTERIAL MEETING TO SET UP A ONE TO TWO-YEAR WORK PROGRAM COVERING AGRICULTURE, SERVICES, INVESTMENT AND OTHER AREAS. ITS OBJECTIVE WOULD BE TO CLARIFY PROBLEMS AND DECIDE HOW BEST TO RESOLVE THEM. WITHIN ONE OR TWO YEARS WE WOULD HAVE A CLEARER IDEA OF THE SUBJECTS ON WHICH WE CAN AT THAT TIME BEGIN NEGOTIATIONS AND A BROADER COMMITMENT TO THE SUCCESS OF SUCH NEGOTIATIONS. ANOTHER MINISTERIAL MEETING COULD BE HELD TO INITIATE NEGOTIATIONS IN THOSE AREAS, AND TO ESTABLISH A TIMETABLE. IN OTHER AREAS, NOT AT THAT TIME RIPE FOR NEGOTIATIONS, WE WOULD SEEK -- AS A SORT OF HALF-WAY HOUSE -- TO REACH OPERATING UNDERSTANDINGS WHICH COULD BE PUT INTO PLACE AND ADHERED TO FOR A PERIOD OF TIME WITHOUT BEING CONTRACTUALLY BINDING. WE WOULD THEN ACCUMULATE SUFFICIENT EXPERIENCE TO EMBODY THEM IN RULES OR CODES WHICH WOULD BE BINDING.

WHILE THIS MAY SEEM A BIT DRAWN OUT FOR THOSE OF US IMPATIENT FOR REFORM, IT IS IMPORTANT TO RECALL THAT PREPARATIONS FOR THE LAST MAJOR MULTILATERAL TRADE NEGOTIATIONS, THE TOKYO ROUND, BEGAN IN 1967, WHEN A GATT MINISTERIAL MEETING LAUNCHED A WORK PROGRAM TO IDENTIFY NON-TARIFF BARRIERS. THE NEGOTIATIONS THEMSELVES BEGAN IN 1975 AND LASTED UNTIL 1979. AS WORK PROCEEDED OTHER ORGANIZATIONS ALSO BEGAN TO EXAMINE THE ISSUES THAT WOULD BE ADDRESSED IN A NEW ROUND OF TRADE NEGOTIATIONS. THE OECD, FOR EXAMPLE, SET UP A GROUP IN 1971 UNDER THE CHAIRMANSHIP OF JEAN REY TO ANALYZE TRADE PROBLEMS IN A LONG-TERM PERSPECTIVE. SIMILAR ANALYSIS WAS DONE IN THE PRIVATE SECTOR (E.G., THE WILLIAMS COMMISSION) WITH THE RESULT THAT A CONSENSUS BEGAN TO EVOLVE ON THE ISSUES TO BE ADDRESSED IN THE NEXT MTN NEGOTIATING ROUND. THIS CONSENSUS WAS THE BASIS FOR THE TRADE ACT OF 1974.

I MENTION THESE PREPARATIONS TO POINT OUT THE IMPORTANCE OF CONSENSUS BUILDING BOTH ON THE NATURE OF THE PROBLEMS WE FACE AND ON THE WAYS IN WHICH WE SHOULD APPROACH THEM. WE ARE, OF COURSE, BEYOND THE STARTING POINT IN THIS PROCESS, BUT IT IS APPARENT THAT

RECENT ECONOMIC CONDITIONS HAVE HIGHLIGHTED SOME IMPORTANT DIFFERENCES AMONG KEY TRADING NATIONS, SLOWING AND MAKING MORE COMPLEX THE DEVELOPMENT OF THE CONSENSUS NEEDED FOR A SUCCESSFUL NEW EFFORT TO REDUCE TRADE IMPEDIMENTS AND IMPROVE TRADE RULES.

IN SUMMARY, MR. CHAIRMAN, THE NOVEMBER MINISTERIAL BEARS A TWO-FOLD BURDEN: IT WILL BE HELD AT A TIME WHEN SEVERAL OF THE INDUSTRIALIZED DEMOCRACIES WILL BE IN THE MIDST OF OR JUST EMERGING FROM A SEVERE RECESSION, AND IT MUST ADDRESS PARTICULARLY RESISTANT BARRIERS TO TRADE WHICH THE GATT HAS SO FAR NOT BEEN ABLE TO REDUCE. RECOGNIZING THE CONSTRAINTS THAT THESE FACTORS PLACE ON THE OUTCOME OF THE MEETING, IT IS NEVERTHELESS ESSENTIAL FOR THE MINISTERIAL TO SET PRIORITIES AND A DIRECTION FOR THE TRADING SYSTEM AND ESTABLISH A STRONG POLITICAL COMMITMENT TO BOTH SO THAT THE GATT CAN PROVIDE AN EFFECTIVE FRAMEWORK FOR DEALING EXPEDITIOUSLY AND FAIRLY WITH THE TRADE PROBLEM OF THE 1980'S. IN THE END, THE SUCCESS OF THE INSTITUTION DEPENDS UPON ITS BEING RELEVANT TO, AND ABLE TO SUCCESSFULLY ADDRESS, THE PROBLEMS OF THE TRADING SYSTEM AND UPON ITS BEING EFFECTIVELY USED BY GOVERNMENTS TO THAT END. I BELIEVE, AND I BELIEVE YOU SHARE MY VIEW, THAT THE STAKE OF THE UNITED STATES IN WORLD TRADE JUSTIFIES OUR STRONG SUPPORT FOR AN EFFECTIVE GATT.

STATEMENT OF HON. MARC E. LELAND, ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS, DEPARTMENT OF THE TREASURY

Mr. LELAND. Thank you, Mr. Chairman. I welcome, as do the other people testifying here today, your holding these hearings. We submitted a document for the record and I will be brief in my remarks so that you can ask any questions that may interest the group here.

I will just highlight what has been said before and what is in our document. Everyone is looking to this Ministerial. I think it gives an opportunity to deal with a lot of the issues that have been ignored since the GATT itself was negotiated as well as dealing with issues that we feel have not properly been addressed.

In our case particularly, the Treasury interests are in dealing with the international financial services. We feel a lot more can be done than has been done, although there has been more progress in the last year or two than might otherwise have been recognized. But we think that in the area of banking and securities, dealing with Ministries of Finance individually and, hammering in on specific policies on a bilateral basis, is carrying through what we think is the basic intent of the GATT, which was to open up markets.

And if we feel that if the GATT is not adequate to deal with these things internationally, then you will have to extend it. But in many cases, as Ambassador Brock said in his comment, there already are a lot of laws that exist under GATT. It is a matter of getting those laws enforced, making them apply.

This is also true in the investment area. We feel very strongly that there is now a rather loose, if you want to put it that way, enforcement of what really should be done in investment around the world. The United States has and I think it has been good for us, the most open investment policy in the world. But the problem is that a lot of other countries are following practices which are really anti-investment. We do not want to copy them because all we would do is shoot ourselves in the foot.

We do not want to put ourselves in the situation of just doing exactly what others do and close off their investment in the United States because it is beneficial. I think that is the purpose of the GATT Ministerial. It is not to close our own market but to open other peoples' markets.

For example, in investment—as we have already decided—we do not need to wait for a GATT Ministerial to deal with investment. We have taken Canada, which is the prime offender at the moment to the GATT on its investment policy. Its policy is particularly bad because Canada is part of the developed world for whom there is less excuse for these particular practices. Therefore, we have taken Canada, under article XXII, to the GATT arguing that they are violating the provisions of GATT by their performance requirements.

I think if we can get the GATT to establish that this is a fact—and I think we have a good chance of doing so—then we will move a long way toward using the present GATT mechanism to do something about investment.

So I think what is important is the imaginative use of the present GATT rules, trying to get them applied in new areas like investment, and building up a momentum before the GATT Ministerial. Everybody agrees that there has got to be more equity in the system, and the United States has got to take the lead to achieve it.

Insofar as reciprocity means equity, that is what we are all seeking. That is what this committee is bringing about, and I think the others have to know that we are not just going to lie down and play dead if they follow practices that are unfair. Others cannot have all the advantages. I think this is what everyone, including the committee, has said today.

You cannot have the advantages of an international trading system unless you play the game according to appropriate rules. I think that is what this administration intends to enforce and on an individual basis does enforce, as I have said, in the case of the banking and securities industry, and in investment. I think you will see a lot more attention on that building up first for the summit in June in Versailles and then for the GATT Ministerial.

I will leave the rest for questions, Mr. Chairman.

Senator **Danforth**. Thank you. Mr. Waldmann.

[The prepared statement of Mr. Leland follows:]

TESTIMONY OF

Marc E. Leland
Assistant Secretary, International Affairs
Department of The Treasury

Before The
Subcommittee for International Trade
Senate Finance Committee

March 1, 1981

Mr. Chairman, I appreciate the opportunity to present the Department of the Treasury's views before your subcommittee on the subject of the GATT Ministerial. Treasury has taken a strong interest in this initiative, and supports the work program outlined in Trade Representative Brock's testimony.

The Treasury Department considers the GATT Ministerial particularly important at this time when national and international economic problems threaten to bury the concept of free trade once and for all. Unless we move forward and liberalize markets, governments will slip back into protectionism. That is especially true today.

The world's leaders will be meeting in several different fora this year to discuss the vital international economic issues of importance to the international community. In April the Interim and Development Committees of the IMF will meet. In May the OECD will hold its annual Ministerial meeting. In June President Reagan and other national leaders will hold an economic summit in Versailles.

At all of those meetings, trade issues will be a major item of discussion. The GATT Ministerial, coming in November after these other high-level economic gatherings, offers an excellent opportunity to synthesize the earlier discussions and reach agreement multilaterally on how trade problems should be addressed.

The Economic Landscape

We are faced today with serious economic and social problems. Record high rates of unemployemnt and weak economic growth worldwide are encouraging protectionist pressures which threaten the stability of the international economic system, and may weaken or destroy the trade-liberalizing achievements of the Tokyo Round of Multilateral Trade Negotiations. Increasingly, the voices in support of free trade have been drowned out by calls for new or increased barriers to trade. These include the traditional imposition of barriers at the border, such as tariffs and quotas, as well as barriers such as export performance requirements, voluntary export restraints and subsidized export credits. In the U.S., the principle of "reciprocity" has received increasing attention. Strict application of this concept, especially on a sectoral level, has the danger of resulting in higher U.S. barriers to trade, and retaliation against U.S. exports, to the detriment of all.

The U.S. Perspective

Retaining as open a market as possible, both here and abroad, is critical for the U.S. economy. Trade benefits national welfare by promoting the efficient allocation of resources, lowering costs, increasing competitive pressures, providing consumers with a wider choice of goods and services, and, in the export sector, increasing U.S. production and employment. A turn toward protectionism, here or abroad, would weaken the U.S. economy. In particular, it would dangerously threaten the President's Recovery Program, which aims to reduce the level of government involvement in the economy, encourage market allocation of the factors of production, increase investment and reduce the level of inflation.

As Ambassador Brock has outlined, the United States is asking the Ministers to adopt an ambitious work program for trade liberalization which includes negotiations in certain areas (such as safeguards) and preparatory work, possibly leading to negotiations, in other areas. This program has apparently worried many of our trading partners, who would prefer to digest the results of the Tokyo Round before advancing new initiatives in the GATT. We should not allow the reticence of other countries to stand in the way of the U.S. pursuing this work program. There is a danger that, without a positive program, protectionist forces will claim the field

Another concern is that for certain trade-related international activities the present rules, including the new agreements made in the Tokyo Round, do not apply, or apply only in certain cases. Treasury has a keen interest in reducing current barriers to international financial services, especially with regard to banking and securities. A particular concern of the Treasury Department has been the lack of a comprehensive framework of rules and agreements in the investment area.

Investment

While international institutions and laws have been developed for virtually every other area -- trade, monetary policy -- there are none in the investment area. The U.S. Government believes that there is a serious need to correct this deficiency.

There are a number of reasons for this omission:

-- During the post-war period, when international institutions such as the IMF and the GATT were created, international investment was not an important issue. In fact, capital controls were viewed as preferable to trade restrictions and were applied by most countries.

-- The types of international investment have changed from passive portfolio investments to active direct investments. For example, the proliferation of multinational corporations (MNCs) is a phenomenon of the 1960's.

-- It is also difficult to determine what role international investment plays both with regard to the international system and individual countries.

These conditions have certainly changed. The level of foreign investment and the number of countries participating, both as sources of and hosts to foreign investment, has increased dramatically. For example, U.S. direct investment abroad increased by 1600 percent from 1950 to 1980, and at year end 1980, the stock of U.S direct investment abroad was equal to $213 billion. Global direct investment at the end of 1980 is estimated to have reached between $450 billion and $530 billion.

A recent OECD study is also indicative of the increased activity of countries in this area. While the U.S. is still the major source country for foreign direct investment, data prepared by the OECD reveals that its share of total direct investment flows of the 13 largest OECD countries decreased from 60 percent in the mid-1960's to about 35 percent in the late 1970's.

Foreign direct investment also has significant effects on our balance of payments. In 1980, income earned on U.S. direct investment abroad was equal to roughly $38 billion.

Most governments would also now agree that foreign investment is an extremely important issue. For example, a review of investment measures such as performance requirements is a high priority on the OECD's agenda for the 1980's.

Government Intervention

The importance governments attach to foreign investment has also been displayed in a much more disturbing manner -- that is through a proliferation of sophisticated national measures which are designed to manipulate foreign direct investment flows. Governments have become exceedingly active players in attempting to maximize the flow of foreign direct investment to their economies and to control or influence that investment so that it supports their national economic or social goals.

These national measures may take various forms ranging from incentives for attracting prospective foreign investors to the imposition of preconditions, often onerous, for approval of foreign investments. These conditions may cover such diverse areas as ownership, technology transfer, market prohibitions and a host of performance requirements relating to areas such as job creation, local content, and exports. Both the incentives offered to and conditions placed on foreign investors may be applied universally or on a selective sector or industry basis. Often incentives offered to and conditions imposed on foreign investors are linked in a "carrot and stick" fashion so that foreign investors are given some inducement to comply with conditions that would be too onerous in isolation. Most of these measures discriminate as between foreign and domestic investment and most result in a distortion of capital, often trade flows, and lead to misallocations of domestic resources.

These discriminatory and restrictive national investment measures are applied by developed and developing countries alike; and the rationale for their use varies between countries. Some countries are motivated by a need to develop their economy are motivated by nationalism, balance of payment, or employment concerns. Visible country examples include: Canada, France, Australia, Mexico, and Brazil; but there are others.

Past and Current Approaches

The basic objective of the U.S. Government with regard to these practices has been to work in various fora to develop some discipline on the use of these measures. We have taken every opportunity to express our concerns regarding these practices bilaterally and in multilateral institutions such as the OECD, the GATT, the UN, and the World Bank. The U.S. Government recently entered into Article XXII consultations in the GATT with the Government of Canada regarding their Foreign Investment Review Agency (FIRA) screening practices, and the conditions they apply to foreign investment in Canada.

Through the U.S.-Mexico Joint Commission on Trade and Commerce, the U.S. Government plans to discuss with the GOM conditions they apply to foreign investment in autos, pharmaceuticals, and proposed conditions on foreign investment in the computer sector.

We also initiated in September of 1981 consultations with the Government of France regarding the national measures they apply to foreign investment. Those consultations are continuing.

The U.S. Government has also pursued this basic objective vigorously in multilateral institutions. In the OECD we succeeded along with other member countries in negotiating an investment package covering national treatment, incentives and disincentives, and the behavior of MNCs. This effort led to an OECD Declaration in 1976 that signatory countries would provide national treatment to foriegn investments of member countries. This Declaration was reaffirmed in 1979, and the U.S. and other governments are pressing for an extension of this principle. Work is also proceeding in several OECD Committees on the implications for trade and investment flows of national investment incentives and performance requirements.

In the GATT, at the March and September 1981 meetings of the CG-18 the U.S. Government proposed that the GATT undertake a systematic study of trade-related investment performance requirements and incentives, starting with development of an exhaustive listing of these measures comparable to the NTB inventory developed for the Tokyo Round negotiations. We plan, as Ambassador Brock noted in his testimony, to request at the GATT Ministerial that this be included in a GATT work program on investment.

In the World Bank/IMF the U.S. and other developed and developing countries joined in a 1979-80 Joint Development Committee task force to analyze investment incentives and performance requirements. Subsequent to that effort, the U.S. and other countries requested that the Bank initiate a detailed study of these measures to determine their impact on trade and investment flows. The IFC has begun such a study and expects to complete it by February of next year.

U.S. Government Proposals for Future Work

While the U.S. Government is pleased that the OECD and the Bank are working on these issues, we also beleive that more can and should be done regarding investment. Present efforts in the OECD, the World Bank and other fora should continue. There is, however, a strong need for this issue to be taken up by the GATT and perhaps other institutions. Our ultimate objective in pressing for such work is to develop in a multilateral setting or settings "rules of the road" for foreign direct investment. The current OECD Declaration on national treatment and the Code of Capital Movements represent important commitments of OECD governments to open investment principles, but the Declaration is not binding and neither includes developing countries.

We are working internally to develop proposals on investment to present to the GATT Ministerial and perhaps elsewhere. At a minimum, we want to arrive at a concensus to begin to address these issues internationally in a serious, analytical manner and to determine whether existing rules apply. We may also wish to develop either within existing or potentially new mechanisms, how rules relating to discriminatory national investment practices could be established. In addition to trade-related performance requirements, other items we may wish to include are issues relating to:

-- right of establishment and national treatment, including screening mechanisms and equity participation requirements;

-- investor protection, nationalization, compensation, and dispute settlement; and

-- transfer of capital, and information disclosure. We are serious about this effort and hope to conclude our internal work soon.

In the absence of some generally agreed upon rules relating to investment, the increased use of discriminatory and restrictive investment measures by governments will seriously threaten the international economic system. It's clear that the use of these measures is increasing and will become even more important as the reductions in tariff and non-tariff barriers negotiated in the Tokyo Round are implemented.

I should underscore that the basic concept of developing rules for foreign investment is not new. Other countries are aware of our concerns in this area. The U.S. has been discussing this general concept and our concerns with specific issues relating to investment for a number of years. Past work in the OECD and the Bank/Fund reflect those concerns.

We can, however, expect opposition to any U.S. investment initiative. For many countries these measures are considered an integral component of their overall development plans or their industrial policies. As such an attack on these investment practices may may be viewed as an attack on these general economic policies.

This should, however, not deter us in this effort. The U.S. Government should be prepared at the same time to take appropriate action against selective national measures which discrminate against U.S. investment and distort U.S. trade and investment flows.

In taking such selective actions we must be careful, however, that those actions:

-- don't do significant and potentially more damage to U.S. interests;

-- that they will help promote removal of egregious practices by other countries; and

-- that they don't lead to a recursive pattern of protectionist reactions that will damage the international framework.

STATEMENT OF HON. RAYMOND J. WALDMANN, ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY, DEPARTMENT OF COMMERCE

Mr. **Waldmann**. Thank you, Mr. Chairman. I would like to summarize the statement I have submitted to the committee. We certainly appreciate the opportunity to testify before you at this point.

As you have heard from Ambassador Brock and the others, the administration is committed to making the Ministerial meaningful. These hearings today and the legislation which you and others have submitted, I think, is an important step in that direction.

We have arrived at a point where a number of tensions within the trading system, both the old familiar ones as well as new ones, threaten the utility of that system. The charges and countercharges of protectionism abound among the major trading partners and bilateralism if not unilateral action is becoming the order of the day.

As tariffs were reduced as a result of earlier negotiations, nontariff barriers rose to take their place and our negotiating focus in the Tokyo round was directed at eliminating many of those barriers. But I think we are now faced with more and more of a new and different set of problems. For example, national industrial policies which seek either to promote growth in particular sectors or to impede the adjustment process in others now loom as potentially the major trade distorting measures of the coming decades.

I think the GATT Ministerial gives us the opportunity to develop an effective international work program to address these and other barriers, to redress imbalances arising from incomplete or inadequate past negotiations, and to defuse the mounting tensions within the system.

Ambassador Brock has outlined the objectives for the Ministerial. I will not touch on those, but I would just like to emphasize that the Ministerial is not a unilateral effort. Its success will require a major commitment on the part of our trading partners and they must realize the need to consolidate and improve upon what we have already negotiated. They must also acknowledge our need to begin work in areas where the GATT to date has not played an effective role.

There are two areas of particular relevance to the Department of Commerce which I would like to briefly highlight—the existing MTN codes and the services sector. Because of our responsibility for the implementation of the MTN agreements we are particularly interested in having a thorough review of these codes. This should be an active review which will enable us to build upon these existing codes and to complete the important work left unfinished from the Tokyo round.

We also support a Ministerial commitment to initiate an active work program in the services sector. There is no real international framework for addressing services issues and, accordingly, we would like to see the Ministerial begin preparatory work toward establishing that framework.

The examination of the existing GATT codes to assess their present or potential applicability to international exchanges of services and a review of existing studies of the services sector, such as those being undertaken in the OECD, will identify the issues of sufficient importance for possible inclusion in future negotiations on this important sector.

I think we have all emphasized the difficulty in the process, but it is an important process. We cannot expect the solutions to the problems to come overnight. But it will only be through our best efforts and those of our trading partners that we will build an open and more equitable international economic system.

Thank you.

[The prepared statement of Mr. Waldmann follows:]

STATEMENT OF RAYMOND J. WALDMANN, ASSISTANT SECRETARY FOR INTERNATIONAL ECONOMIC POLICY, DEPARTMENT OF COMMERCE, BEFORE THE SENATE FINANCE COMMITTEE, SUBCOMMITTEE ON INTERNATIONAL TRADE

MARCH 1, 1982

Mr. Chairman. I appreciate the opportunity to appear today to discuss the upcoming GATT Ministerial. Ambassador Brock has already pointed out this Administration's commitment to making the Ministerial meaningful. I can only underscore this commitment and the importance of the Ministerial.

The November meeting in Geneva provides a rare opportunity to move the international trading system toward further liberalization. It is an opportunity we and our trading partners cannot afford to miss.

After almost three decades of unprecedented work on trade liberalization through the GATT, an effort largely driven by the United States, we have arrived at a point where a number of tensions within the trading system--both old, familiar ones as well as new ones--threaten the utility of that system. Charges and countercharges of protectionism rebound among the major trading partners; bilateralism, if not unilateral action, is becoming the order of the day in a number of quarters. Thus the GATT

Ministerial comes at an opportune and crucial point for the world's trading community. Only through concerted multilateral action can we reduce the tensions which threaten both to undo our earlier progress and undermine the system itself.

This will not be an easy task. While successive rounds of trade negotiations have peeled away a variety of traditional trade problems, they have at the same time revealed deeper and more difficult obstacles to trade. As tariffs were reduced as a result of earlier negotiations, non-tariff barriers rose to take their place. Consequently, our negotiating focus shifted, and our efforts in the ensuing Tokyo Round were directed at eliminating many of these barriers. We should take pride in our success at developing codes which regulate abuse in areas such as product standards, customs valuation and procurement.

But we are now faced more and more with a new and different set of problems. National industrial policies which seek either to promote growth in particular sectors or to impede the adjustment process in others now loom as potentially the major trade-distorting measures of the coming decade. Similarly, the free flow of capital worldwide is increasingly impeded by a proliferation of competing investment incentives and performance requirements. Moreover, we have come to realize that problems confronting some key sectors of the world economy, such as services, are not even subject to existing trade rules.

In short, new problems have surfaced to take the place of the old ones which, to a greater or lesser degree, have been negotiated away. The GATT Ministerial gives us the opportunity to develop an effective international work program to address barriers not heretofore addressed, redress imbalances arising from incomplete or inadequate past negotiations, and thus defuse the mounting tensions within the system. How we manage this opportunity will be the key to ensuring the continued effective and efficient functioning of the multilateral trading system.

We have defined a set of reasonable objectives for the Ministerial which Ambassador Brock outlined earlier; I would highlight two:

--promoting further trade liberalization while avoiding a self-defeating slide into protectionism; and

--strengthening the GATT as the institution for dealing with the increasing number and more diverse nature of the problems facing the international trading system.

Obvious and simple as these objectives may seem, it will be a very difficult proposition to meet them in practice. It will require a major commitment on the part of the United States to play a leading role internationally in moving the process forward. We in the Administration are here today to signal our commitment to that goal; through these hearings, you in Congress are signalling yours.

But the Ministerial is not a unilateral effort. Its success will also require a major commitment on the part of our trading partners. In the first place, they must realize the need to consolidate and improve upon what we have already negotiated. Secondly, they must acknowledge our need to begin work in areas where the GATT has not to date played an active role.

From a U.S. perspective, there are a number of specific issues, both traditional and non-traditional, which must be addressed internationally through the Ministerial. Some of these have been mentioned earlier. I would like briefly to address two which are of particular relevance to our work in the Department of Commerce: the MTN Codes themselves and the services sector.

Because of our responsibility for the operational implementation of the MTN Agreements, we are especially interested in having a thorough review of the Codes. We view this not as a passive exercise, however, but rather as an active review which will enable us to build upon existing codes and to complete important work left unfinished from the Tokyo Round.

o We believe it is important to examine the Codes already in place to determine how well their objectives have been achieved in practice, and how they might be improved. Some aspects of such a review have already been provided for in the Codes themselves, such as further negotiations to expand the coverage of the Government Procurement Code and the triennial review of the Standards Code scheduled this fall. We hope to take advantage of the Ministerial not only to review past performance under the codes, but to consider where we want to go in the future.

o There is also important, although unfinished, business from the Tokyo Round which can receive needed impetus from the Ministerial. During the MTN, our negotiators were not able to conclude agreements on safeguards or trade in counterfeit goods; the Ministerial can help push these efforts on to completion.

- o Also, after years of technical work, the Harmonized System -- an international agreement for classifying and describing goods for customs and statistical purposes--is now being reviewed for possible adoption. We believe that the Ministerial can be used to highlight the trade facilitation benefits of such a classification scheme, thereby adding some high level impetus to the international consideration of the Harmonized System.

We also support a Ministerial commitment to initiate an active work program on the services sector. Services trade has been estimated to represent between $30-60 billion in surplus for U.S. trade. While we are currently pursuing a number of specific services problems bilaterally and through the OECD, no real international framework exists for addressing services issues. Accordingly, we would like to see the Ministerial begin preparatory work towards establishing such a framework. Such a work program might include an examination of existing GATT codes to assess their present or potential applicability to international exchanges of services and a review of existing studies of the services sector, such as those being undertaken in the OECD, to identify cross-cutting issues of sufficient importance for possible inclusion in future negotiations.

As I noted earlier, however, the Ministerial is not a unilateral event; rather, it is an opportunity to reaffirm the importance of a free trade system which operates in a multilateral context. Addressing issues of importance to us--whether they relate to the Codes, to services, or to any of the other items which we have sought to include on the agenda--cannot proceed without the cooperation of our trading partners. They must decide that it is in their own self-interest to remove these existing barriers to trade.

We cannot expect the solutions to the problems to come overnight. The process set in motion by the Ministerial will be a long and arduous one, and it will only be through our best efforts that we will build a more open and equitable international economic system. We are committed to achieving that goal.

Senator DANFORTH. Gentlemen, thank you very much.

I think I agree with almost everything that has been said. I would say, Mr. Lodwick, I certainly agree with you. I do not understand why agriculture should not be treated as everything else. Another country wants to send us their cars and their television sets. I do not understand how they can keep out our beef and our leather and our citrus.

Is there some basis for distinguishing between agriculture and other types of goods? Maybe there is some theory for it. I do not understand it and it is very hard, I think, to explain, but maybe there is some explanation.

Mr. LODWICK. Mr. Chairman, perhaps over the years there has been some justification of it, but if there has been, we think that that justification is completely out of date today and we are proceeding on the basis that from now on that there should be no distinction between the two.

Senator DANFORTH. Well, I think that is right, and I think that that is the policy which is clearly, clearly in the best interests of our people.

If there is a problem under the subsidies code and its coverage of agriculture, it would be my hope that that would be a matter that could be addressed in the talks in November.

Mr. LODWICK. We are looking forward to proceeding along that line, Mr. Chairman.

Senator DANFORTH. I would also say that if our markets are going to be open to services and investment from other countries and if the service sector of our economy has become larger than the industrial sector, clearly an effort to open up other markets to services and to investment is in the best interests of the United States and that would seem to be a matter of top priority.

Is that the consensus of this panel?

Mr. **Hormats**. Yes.

Senator **Danforth**. Now, finally, I suppose there is a possibility that we could so concentrate on services and investment that perhaps there would be a downgrading of emphasis on American exports of goods—what we actually make in this country.

Do you see any problems down the road as we increase our emphasis on services and investment, that perhaps the trade of goods will receive short shrift?

Mr. **Waldmann**. Mr. Chairman, if I could say a short word on that, I do not think the emphasis on services would detract from our continuing review of the tariff and nontariff barriers to our industrial manufactured goods trade.

We place a great deal of emphasis on the application of the codes not only to the service area but primarily to the manufactured products. It is there where we have to work on the entrenched nontariff barriers and the new barriers of which I spoke, because those are the areas where we are being denied the access and the opportunity to compete which we have talked about.

Senator **Danforth**. Senator Grassley.

Senator **Grassley**. Thank you. Our efforts in the past to get the Japanese to open up their trade barriers—I should say open up their markets to our products has been based upon almost an item-by-item approach. Now I know our efforts this time are more broad-based, to get them to look at their whole trade program, to get them to have a whole new trade policy, I would suggest.

On the other hand, the things that we have considered victories to this point are getting them to look at item-by-item things that are coming up on agricultural concessions that we hope that they will renegotiate by October 1 or start talking about by October 1, I guess.

Are we really, No. 1, making a point to the Japanese, and, No. 2, do we really have a new policy? Or maybe it ought to be answered the second question first. Do we really have a new policy and are we making our point by our examples the way we should to the Japanese Government?

Mr. **Hormats**. I would say that one way to put that is we have a broader set of objectives now than before, but I think you are right in the way you characterize the traditional approach of the Japanese. That was trying to get specific concessions and specific improvements in specific areas. Those were important areas—the agricultural area, where the Japanese have quotas which just are indefensible.

I mean, they have domestic arguments, political arguments, as to why they cannot remove them, but the fact is they sell an awful lot of cars in our market and we sell very little beef and very little products in other areas—manufactured tobacco, for instance—in the Japanese market. And that simply is—however you define "equity" that sure isn't it.

But that has been the traditional way of dealing with it. But now what we have concluded, through a lot of analysis, is that the Japanese market is restricted not just by specific barriers at the border and specific areas but by a whole host of inbred protectionism measures. Many of these are social. Many of them occur in the area of governmental procurement. Many occur in the supply relationships between domestic producers and domestic consumers—final contractors and such things.

So what we have been trying to do is get the Japanese to take a look at the entire range of impediments in their market, both at the border, those in the areas of standards, technical procedures for processing goods, and distribution—a whole array of things which are very important and which in the final analysis are the fundamental difficulties that people have with the Japanese market.

That has really required pressing them on the whole array of things, by asking them to open up their market, because they know these things better than we do. We cannot possibly identify each one of them because they are so pervasive, but what we would like the Japanese to do is to take a look at their whole economy and see all of the many, many built-in things which restrict imports—and there are just thousands of them—and that is what we have been pressing the Japanese to do.

The Japanese have come a couple of steps in that direction in the announcements they made a couple of months ago. We recently had a visit by Mr. Asaki, Foreign Minister Asaki, who is the fellow who was in charge of LDP group, the Diet group.

But I think the Japanese have still missed the fundamental point. The fundamental point is they are going to have to, in order to make their economy generally more open than it is today, they have got to take a whole array of actions, both at the border and in terms of certain internal practices.

And, too, they have got to realize that if they do not do that it is not going to be just us who will be upset. I just got back from Western Europe last night. If you think tensions are high here, in Western Europe they are about triple what they are in the United States, and the Japanese have got to realize they, more than any single country in the world, have a stake in the open trading system and they have to, in order to make sure that system stays open, take broader actions than they have taken across the board.

That is really the approach we are trying to pursue.

Mr. LELAND. I would just add to that, Senator, in light of what Bob said, one of the new things that is being done is not to let the Japanese use a salami tactic on us, whereby they deal with each country and each sectoral problem individually. They say to the United States your problem is you do not produce cars that small enough. Well, the Europeans were producing cars that were small enough and they could not sell them in Japan.

Or they tell you you do not speak the language. Well, the Koreans did not have trouble with the language and they could not sell in Japan. Opening up the Japanese market must be a multilateral effort. TA multilateral effort to open markets is what the whole GATT Ministerial summit is about.

As we said, the problem with Japan is considerably larger for Europe in proportion to the size of their market than ours is, and we have to deal with it as a group.

Senator DANFORTH. Senator Baucus.

Senator BAUCUS. Thank you, Mr. Chairman.

Secretary Hormats, you made a point which I think was good, and that is that it is important to include nontariff trade barrier matters on the agenda. Otherwise countries are going to resort to unilateral or bilateral ventures and international goodwill might begin to break down and unravel.

Do you think that is an argument that other countries, particularly the Japanese and the European Economic Community, understand—sufficiently understand—so that they will pay heed to it? Or are we just blowing smoke here?

Mr. HORMATS. I think there are two problems. I think the Europeans and the Japanese, at certain levels, do understand. But I would say also that with respect to Europe, now, their domestic economic problems make it difficult for those who understand the need to get on top of these issues and deal with them, to convince the broader range of people, particularly political people who are concerned about the broader set of issues, to take the actions that need to be taken.

I just got back from discussing this with the Europeans. They will argue they have got 10- to 14-percent unemployment in most of Western Europe and that even if they realize that we were right, that they had to get rid of some of these things, they would point to the fact that the timing is not appropriate.

Now I will put it the other way around. I would simply say that if the world has economic problems now, how much worse are those problems going to be if they move through a period of protectionism?

Senator BAUCUS. I am glad you see it that way. That was going to be my next point. Excuse me.

Mr. HORMATS. No, excuse me. Go on.

Senator BAUCUS. It just seems to me that with strains in the Atlantic Alliance, economic problems and national security problems that Western Europe is going through today, combined with the pressures the United States is undertaking with Japan to share the national security umbrella and encourage Canada and others to raise their defense commitment, that the bigger question is whether we, as Americans and Japanese and Western Europeans and the free world, can work together as friends or as partners.

Because as we move too far in this area, nitpicking, attacking each other, and protectionism in some way, we are going to play into the hands of the Soviet Union and the hands of those who would like to see divisions between the United States and Europe and the United States and Japan and so forth.

It seems to me that we need a lot of leadership here and I think that in some sense maybe Japanese barriers to trade are not as bad or not as severe as some Americans would think, and yet I think they are quite severe. Similarly, the barriers in Japan to American products are probably much more significant than the Japanese people, I suppose the politicians, realize.

Mr. HORMATS. I think that is right.

Senator BAUCUS. So what I am saying is, we have used the words lightly but I think this time it should be used seriously, and that is the leadership of the United States, Japan, and the Western European Communities so that we solve the basic problem rather than get involved with a lot of nitpicking.

Mr. **Hormats**. I think the key word here is leadership is really needed. Obviously times are really tough for many countries, but unless there is leadership in all countries to understand these problems and really move toward solutions, then we are going to fall back and that will undermine Western economic relations and Western security ties.

It seems we have three opportunities here. One is the OECD ministerial meeting which will be coming up in May. Second is the Versailles economic summit in June, and then the Ministerial. It seems to me that we really have to press extremely hard. If the United States does not press to get these items on the agenda and determine what directions we think the world ought to move to resolve these issues, no one is going to do it.

The Japanese, although they have responsibility for the system, have not accepted that responsibility or leadership role. The Europeans, because of their problems and because of divisions among them, are simply not in a position to do it. We are going to have to press them very hard if we want any progress, and I agree with you.

Senator **Baucus**. If, by chance, U.S. interest rates decline significantly so that the American economy picks up, will you collectively, or will the STR, be less resistant in trying to address these trade problems? I have a feeling part of the reason we are trying to work so hard today is because our economy is in such a mess.

Mr. **Leland**. No, no.

Mr. **Hormats**. These problems will be difficult, but if our economy were going well, the tensions would be less, but the problems would be there. I think we still have to address these problems head-on because they are really structural problems and unless they are addressed I think the system will—

Senator **Baucus**. Well, I hope that is true, because it is an opportunity to move and I think we should take advantage of that opportunity.

Mr. **Leland**. I agree. I think that is emphatic.

Senator **Danforth**. Senator Matsunaga.

Senator **Matsunaga**. Thank you, Mr. Chairman. I wish to join others, Mr. Chairman, in commending you for calling this hearing to help formulate the proper American approach for the November meeting of the GATT Trade Ministers.

As far as this Senator is concerned, I support the effort to open negotiations in new areas such as services and investment. We should encourage agreements in these areas that reserve access abroad for American services and investments

But before the United States turns to new areas, we ought to insure that we are receiving all that we expected from the 1979 Multilateral Trade Agreements. If the other nations are not living up to the terms of existing agreements, how can we expect them to conform with new agreements?

Furthermore, if the other contracting parties are enjoying only the benefits without bearing the burdens of their contractual agreement, then it is patently unfair to us. The primary objective of the upcoming Ministerial talks, I feel, should be to require each country to perform their part of the existing agreements and it seems to me that that is not the case now.

Although the United States is meeting its contractual obligations, the European Community, for example, is not. The U.S. trade representative must get the Europeans to live up to their commitments, or have the United States withdraw from our commitments.

Let me recite just one example. The subsidies code, concluded in 1979, forbids agricultural export subsidies which undercut another member's market share or undercut another member's prices. But the European Community makes a super-technical argument to repudiate its obligation under the subsidies code. It contends that its common agricultural policy, predates the 1979 code and that, therefore, the subsidies code in effect is grandfathered into the CNP.

Well, that is simply not what the United States bargained for, I am sure you will agree. I am sure the United States did not give up the injury test for a code that is not binding on the other parties. The effect of European practice is disasterous for the United States sugar growers, of whom there are many, many in Hawaii. Now up to 1975 the European Community imported sugar. Now, however, due to its heavy subsidy, the European Community exports sugar and dumps sugar in the world market at prices below the cost of United States production and even below the European Community guaranteed price level.

Throughout the period from 1978 to 1981, countries that adhered to the international sugar agreement held back sugar exports to stabilize prices. The European Community expanded its heavily subsidized exports to capture 20 percent of the world market by 1981.

For the current season, world sugar production is estimated to increase by 10 percent. A fifth of that increase is due to heavily subsidized European sugar. The European Community will likely raise production by 1.9 million tons, a 15-percent increase from last season. World sugar prices have declined because of the surge of subsidized European production.

Low sugar prices have hurt the developing nations which are least able to cope with these hard economic times. Lower sugar prices have also hurt domestic U.S. industry, with its 25.5 cents a pound cost of production exceeding the current 13.4 cents a pound market price.

If I may proceed, Mr. Chairman——

Senator **Danforth**. Yes.

Senator **Matsunaga**. The Hawaiian sugar industry incurred an $18 million loss in 1981. An equal amount of red ink is expected this year. Now one Hawaiian company has closed its factory temporarily and one has announced the closing of 1 company employing 500 workers, and using 16,117 acres out of production permanently. They are closing out. And 7,500 organized sugar workers in Hawaii have agreed to postpone scheduled wage increases to help the industry through current situations.

However, if we permit what is now going on without insisting that the other nations comply with their bargain or keep their part of the bargain of the existing agreements, heavens. We will never be able to put the sugar industry back on its feet in Hawaii or anywhere else in the United States.

And I would seriously request—suggest—Mr. Chairman, that every effort be made to see at the GATT Ministerial meeting in November, that existing agreements be complied with. I would like to hear the comments from the representative of Agriculture.

Mr. LELAND. Thank you. Mr. Chairman, the sugar case that Senator Matsunaga so eloquently states unfortunately is not the only case in this regard. There are many others and one of the reasons that the section 301 cases are being brought now is to try the system out so that we can judge between now and November how effectively the system works.

If the system works, fine, OK, so be it. If it does not work, well, then it is high time that the system be adjusted in some way.

I would point out one other critical benchmark that we have between now and the 25th of November, and that is the announcement that the European Community is scheduled to make in April, and it might just be a little after that, relative to the prices that they will institute for their farm program and also any other announcements they would care to make about the common agricultural policy.

This will be a benchmark, if you will. Secretary Block, along with Ambassador Brock and others, have been emphasizing since May the importance of exactly what you mentioned, and that is unfair competition in third markets. In April, subsequent to that, we will be able to see if the European Community has heard what we have been trying to say.

The European Community is important to us. They represent a large trading bloc with us in agriculture, as well as in other areas. Certainly we are looking forward to cooperation; but on the other hand we have got to see some progress. One of the benchmarks is the announcement that the Community will make in April, or subsequent to it, and the other, Mr. Senator, is the way in which the section 301 cases are being handled.

Already today some people are saying some of the section 301 cases are being confronted with delays, unnecessary delays. We hope that this can be avoided but we will be able to measure that by November.

Senator DANFORTH. Senator Bradley is next. I unfortunately have to be at another meeting at 12. We have four more witnesses to go, so if any of you have anything to add to that, fine. But if we could kind of keep it fast.

Mr. WALDMANN. Senator, if I could add just one sentence, I would like to assure Senator Matsunaga that we do place high priority on the implementation of the existing codes and we are examining the foreign compliance with those codes as an ongoing matter, just to reassure you.

Senator MATSUNAGA. I appreciate that. If I can make this one statement, if the President does have termination authority under section 125 of the 1978 Trade Act, as I understand it, but of the 25 cases under section 301 seeking enforcements of the United States' right under these agreements, the executive has accepted only six or seven, as I understand it, which means that perhaps the Congress ought to make it mandatory that the executive does act in instances of violent abuse of existing agreements.

Senator DANFORTH. Senator Bradley.

Senator **Bradley**. Thank you, Mr. Chairman.

One of the things that I encounter all the time is the long list of our complaints with our trading partners. They are not letting this product in, that product in. We are being too restrictive. Indeed, on this Committee we are in this season, anyway, coping with a whole list of potentially restrictive trade measures.

Now when you talk to our allies in Japan and Germany, what do they say is the problem?

Mr. **Hormats**. What is the problem with us?

Senator **Bradley**. Yes.

Mr. **Hormats**. Well, they have their concerns about us too. No one is 100 percent virtuous. I think the point we are trying to make is—

Senator **Bradley**. We have very specific complaints with them, with the Japanese and with the Europeans, on various trade barriers, on nontariff barriers. What are their complaints with us?

Mr. **Leland**. The Canadians always mention the Jones Act, for example. We have legislation that they will throw back at us which they feel close our markets.

Mr. **Hormats**. We, for instance, have quotas on certain agricultural products.

Senator **Bradley**. So you are saying when you talk to the Europeans and the Japanese that they are interested in market access more than anything else?

Mr. **Leland**. I do not think the Japanese make much complaint about market access.

Senator **Bradley**. What are their complaints? Do they ever complain about macroeconomic policy?

Mr. **Leland**. Oh, yes.

Senator **Bradley**. What do they say about that?

Mr. **Leland**. The point is everybody, Senator, feels a good offense is a good defense and certainly our allies are not shy to use this tactic. It is no secret in the press that the Japanese will say, incorrectly, that they feel that the yen would be higher in value, relative to the dollar, if it were not for our high interest rates, and therefore they would not be more competitive.

Senator **Bradley**. Is that true?

Mr. **Leland**. To a limited degree. In the end the yen might be higher, relative to the dollar, if it were not for our high interest rates; but on the other hand, high interest rates are not a policy of this Government. We point that out to the Japanese.

Mr. **Hormats**. To follow that up, sometimes when the dollar is weak they complain that we are too competitive because of a weak dollar. When the dollar is strong, they complain about the interest rates which have led to its strengthening. No one is 100 percent virtuous, and sometimes their complaints are right. Other times they use them as a way of justifying——

Senator **Bradley**. A rough rule of thumb that I have read is basically a 1-percent decline in the value of the dollar is worth $2 to $3 billion in our trade. Could you tell me what nontariff barrier, or tariff barrier, exists in Japan that, if removed, would give us that kind of increase in our balance-of-payments deficit, would improve our condition by $2 to $3 billion?

Mr. **Leland**. Well, if Japan had an open market, as Ambassador Brock earlier discussed, the Japanese system, which basically has many oligopolistic aspects, is very much a Japan-Inc.-type thing, and you are trying to break into that market. If you could break into it, there is a substantial market there to break into.

In agricultural products and other industrial products, the trouble is the Japanese market is vertically integrated to a degree where Japanese firms all buy from each other. If you could break into the circle of firms you would make a much bigger difference.

Senator **Bradley**. I was visited just this week by a number of lobbyists who have various bills that are more broadly defined as special reciprocity bills, and their argument was that we need to change the way the Japanese view our businessmen. I asked them, well, tell me. What is the one nontariff barrier, or the two nontariff barriers, that, if you could knock out, would improve your situation most directly? To which they responded well, there is not one. There is not two.

So what are we doing? We are dealing with the Japanese culture here.

Mr. **Hormats**. In part.

Senator **Bradley**. Could you help me, because maybe we are up here tilting at windmills?

Mr. **Hormats**. Part of it is windmills, but part of it is a web of restrictions which have been built in over a period of years which cannot be eliminated overnight, but certainly can be eliminated over a period of time.

Senator **Bradley**. So you are saying we cannot go to the Japanese and say get rid of this and this to improve our trading position as much as a 1-percent decline in the dollar would?

Mr. **Hormats**. Yes. First of all, there are a lot of things they can do in particular sectors. There is one thing, I think, they can do which would have a broader impact on the figure, is in my testimony. Let me read them for 1 second.

A 1-percent change in the effective exchange rate of the dollar leads to about a 1.2-percent change in the volume of our exports.

Senator **Bradley**. What is that in dollars?

Mr. **Hormats**. What are our exports? We will give you all of these.

Senator **Bradley**. $2 to $3 billion. A 1-percent decline in the dollar produces $2 to $3 billion change in our balance of payments.

Mr. **Hormats**. If you ask, one thing that we would like the Japanese to do is to make the yen an internationally used currency, much as the dollar and sterling and, to a lesser extent, the deutsche mark are. This would almost certainly strengthen the demand and the usability of the yen—the demand for the yen and strengthen the value of the yen. And I think if you asked me one thing, this should not let them off the hook on all of the secondary things.

Senator **Bradley**. My time is up, but I would just like to ask, if I could, one quick question—one quick question.

Senator **Danforth**. We have four witnesses in the next 40 minutes.

Senator **Bradley**. Well, could I just have one answer on this? I have a real fear that we are in a recession caused by high interest rates, among other things. We have a potential financial crisis out there in the international sector with regard to the Polish debt.

Senator **Danforth**. A short question.

Senator **Bradley**. And you have this rising call for reciprocity which is a protectionist effort. Now that concerns me greatly because if I look back and read the history of 1929–33, those were the exact components that were involved in creating the Great Depression.

Now are you concerned about that?

Mr. **Leland**. Yes, but to go further into it, I think reciprocity can mean, as all of the witnesses have said here, Senator, can mean many things. No one wants it to mean strictly protectionism.

On the other hand, if it means that there are international rules that should be applied and that we do not just lie down and play dead, when they are violated then everybody, I think, would agree to that. That is all we are saying.

I will submit for the record information on the relation between the value of the dollar and exports and imports. Let us not overemphasize this relationship; 1 percent is not anywhere near $2 to $3 billion. I mean, if the dollar drops 10 percent you can have a $20 billion change with the Japanese in your trade.

Mr. **Hormats**. Not with the Japanese across the board.

Mr. **Leland**. It is a much more complicated issue. A 1-percent drop in interest rates can make an enormous difference in trade with developing countries, allowing them to be enormous importers. There are too many factors involved to look at any one and say it is going to solve the trade problem.

Senator **Danforth**. I want to ask you one question that calls for a one-word answer. Do you believe that enforcing access to foreign markets by the United States equals protectionism?

Mr. **Hormats**. No.

Mr. **Leland**. No.

Mr. **Waldmann**. No.

Mr. **Lodwick** [indicating thumbs down].

Senator **Danforth**. The next witness is Mr. Paul Sticht. Please proceed.

STATEMENT OF J. PAUL STICHT, CHAIRMAN, R. J. REYNOLDS, INC., WINSTON-SALEM, N.C., ACCOMPANIED BY CHARLES LEVY, ESQ., MAYER, BROWN & PLATT

Mr. **Sticht**. Thank you, Mr. Chairman. I will cover only part of my document that has already been submitted. I am Paul Sticht, chairman and chief executive of R. J. Reynolds Industries, and I must say I am very pleased to be here today in my capacity as a member of the Business Roundtable Task Force on International Trade and Investment. I am accompanied today by Charles Levy of the law firm of Mayer, Brown & Platt.

My company has total revenues of over $12 billion, over 40 percent of which are generated in our international marketing and trading activities. Some 46 percent of our 83,000 employees work outside the United States, and about 43 percent of our identifiable assets are used to support our international business activities. We market our products and our services in 160 countries and territories and we own or operate facilities in 39 countries outside the United States. My personal involvement in international trade extends back to the late 1940's.

The Business Roundtable welcomes the subcommittee's hearings. It underscores the significance of the upcoming GATT Ministerial meeting in November, and my remarks today represent an overview of the Business Roundtable's position on the GATT Ministerial. Over the next few months, our task force will be developing more specific recommendations.

My statement on behalf of the Roundtable stresses four critical needs for the U.S. approach to the GATT Ministerial: First, the need for the United States to display a strong commitment to GATT; second, the need for the Ministers to address the adequacy of GATT; third, the need to consider new international trade issues for inclusion in GATT; and, finally, the need for the United States to consider supplements to GATT and to U.S. law.

Let me start by emphasizing the need for a strong multinational commitment to GATT.

Following World War II, the United States provided the leadership in developing international economic policies designed to foster expansion of trade and investment through mutually acceptable rules. Although problems have surfaced, to date these policies have been generally successful.

The commitment to GATT has led to a reduction of trade barriers. This, in turn, has helped foster an unparalleled expansion of trade and international investment.

On balance, the record of GATT is a good one. Under its auspices there have been seven rounds of multilateral trade negotiations. These have produced significant tariff reductions. Other multilateral agreements have established rules which limit practices that distort trade, such as Government subsidies, product standards, and unfair pricing. The codes negotiated at the Toyko round were a major step forward in protecting firms and workers against unfair trade practices.

But now the success of GATT is being challenged. New restraints on trade are being substituted for tariffs. Today, world trade faces even more complex and troublesome obstacles in the form of nontariff barriers and subsidies.

Let me give you an example from my own company's experience. I know some members of this subcommittee are aware of the significant nontariff barriers encountered in trying to open the Japanese home market to U.S.-manufactured cigarettes. Despite outstanding assistance from the U.S. Trade Representative, our industry has made only minimal progress in securing satisfactory market access.

I once told a group of visiting Japanese industrialists what would happen if we restricted the sale of Japanese cars in the United States as they have restricted the sale of U.S. cigarettes in Japan. Japanese automobile manufacturers would have access to only a very small percentage of the market, and at double the current price. And until recently that man who sings, jumps, and clicks his heels in the Toyota ads would be doing his U.S. TV spots in Japanese, not English.

Now this kind of problem is why serious questions are being raised about the good faith efforts of our trading partners and the viability of the GATT.

[The prepared statement of Mr. Sticht follows:]

STATEMENT OF J. PAUL STICHT ON BEHALF OF THE BUSINESS ROUNDTABLE TASK FORCE ON INTERNATIONAL TRADE AND INVESTMENT BEFORE THE SENATE FINANCE SUBCOMMITTEE ON INTERNATIONAL TRADE

MARCH 1, 1982

I am Paul Sticht, Chairman and Chief Executive Officer of R. J. Reynolds Industries, Inc. I am pleased to be here today in my capacity as a member of the Business Roundtable Task Force on International Trade and Investment. The Business Roundtable consists of almost 200 companies. Nearly all of them have substantial international operations.

I am accompanied today by Charles S. Levy of the law firm of Mayer, Brown & Platt. Mr. Levy serves as counsel to our Roundtable Task Force.

My company has total revenues of over $12 billion, over 40 percent of which are generated in our international marketing and trading activities. Some 46 percent of our 83,000 employees work outside the United States and about 43 percent of our identifiable assets are used to support our international business activities. We market our products and services in 160 countries and territories, and we own or operate facilities in 39 countries outside the United States.

I also serve as a director of three other companies, all of which are engaged in substantial international business. For the last six months, I have been a director of the Chrysler Corporation. My personal involvement in international trade extends back to the late 1940's.

The Business Roundtable welcomes the Subcommittee's hearing. It underscores the significance of the upcoming GATT Ministerial Meeting in November.

My remarks today represent an overview of the Business Roundtable's position on the GATT Ministerial. Over the next few months, the Task Force will be developing more specific recommendations. We will welcome the opportunity to hold further discussions on this important matter with this and other Committees of the Congress, and with the Executive Branch.

My statement on behalf of the Roundtable stresses four critical needs for the U.S. approach to the GATT Ministerial:

(1) The need for the United States to display a strong commitment to GATT;

(2) The need for the Ministers to address the adequacy of GATT;

(3) The need to consider new international trade issues for inclusion in GATT; and

(4) The need for the United States to consider supplements to GATT and U.S. law.

I. THE NEED FOR A STRONG COMMITMENT TO GATT

Let me start by emphasizing the need for a strong multinational commitment to GATT.

Following World War II, the United States provided the leadership in developing international economic policies designed to foster expansion of trade and investment through mutually acceptable rules. Although problems have surfaced, to date those policies have been generally successful.

GATT, with its emphasis on multilateral, non-discriminatory reduction of trade barriers is one of those policies. Another is the IMF, with its focus on the maintenance of a stable system of international payments. These institutions and their rules were designed to prevent a recurrence of the self-destructive trade and monetary policies of the 1930's.

The commitment to GATT has led to a reduction of trade barriers. This, in turn, has helped foster an unparalleled expansion of trade and international investment. World trade has expanded fivefold in the last decade. In the United States, exports now account for more than 12 percent of GNP.

On balance, the record of GATT is a good one. Under its auspices there have been seven rounds of multilateral trade negotiations. These have produced significant tariff reductions. Other multilateral agreements have established rules which limit practices that distort trade, such as government subsidies, product standards and unfair pricing. The Codes negotiated at the Tokyo Round were a major step forward in protecting firms and workers against unfair trade practices.

But now the success of GATT is being challenged. New restraints on trade are being substituted for tariffs. Today, world trade faces even more complex and troublesome obstacles in the form of non-tariff barriers and subsidies.

Let me give you an example from my own company's experience. I know some members of this Subcommittee are aware of the significant non-tariff barriers encountered in trying to open the Japanese home market to U.S.-manufactured cigarettes. Despite outstanding assistance from the U.S. Trade Representative, our industry has made minimal progress in securing satisfactory market access.

I once told a group of visiting Japanese industrialists what would happen if we restricted the sale of Japanese cars in the United States as they have restricted the sale of U.S. cigarettes in Japan. Their cars would be sold in only one of every 10 U.S. dealerships. And, until recently, the man who sings, jumps and clicks his heels in the Toyota ads would be doing his U.S. TV spots in Japanese.

This kind of problem is why serious questions are being raised about the good faith efforts of our trading partners in implementing the MTN Codes and fulfilling their GATT commitments. The questions are justified. They need answers. The problem is compounded by the growing recognition that GATT's membership may not be broad enough.

The multilateral trading system is threatened by protectionist pressures here and abroad. Growing tensions between trading partners could lead to a break in unity. To help prevent this, the United States must display an extraordinary commitment to GATT. The Business Roundtable urges the United States to assert the political will and leadership that are needed to ensure the survival and strength of our multilateral trading system. The U.S. must insist on no less a commitment by other trading nations.

II. THE NEED TO ADDRESS THE ADEQUACY OF GATT

GATT is far from perfect, and its friends -- like us -- should take the lead in identifying and dealing with its imperfections.

First, GATT needs to try again to provide a meaningful adjustment mechanism for countries faced with a surge of imports of a particular product. Existing GATT provisions are not adequate and the Tokyo Round failed to agree on a "safeguards code". As a result, nations sometimes find they have to look for relief outside GATT. They turn to such devices as voluntary export restraint agreements or international orderly marketing agreements. If this trend continues, the multilateral trading system will be undermined further.

Second, GATT must ensure that the MTN Codes are being properly implemented and that GATT procedures for settling disputes are adequate. These Codes and procedures lie at the heart of GATT's effectiveness and viability. If they work, they can deal effectively with a significant number of problems arising from government intervention. But if they do not work as expected, if governments prove unwilling to use them, or if countries found to be in violation of GATT do not consider themselves bound by GATT decisions, government intervention will continue to undermine GATT.

The upcoming GATT Ministerial offers the opportunity to get to the core of these problems. The Business Roundtable urges the United States to take the leadership in a thorough review of GATT's structural and operational strengths and weaknesses.

III. THE NEED TO DEAL WITH IMPORTANT NEW INTERNATIONAL ISSUES

In the past few years, a number of new issues have demanded the attention of the international community. Now they warrant the attention of the GATT Ministers, who should focus on their appropriateness for consideration in GATT. These issues include: (a) trade in services; (b) trade-related investment issues; (c) trade in high technology goods; (d) agricultural trade; and (e) the participation of developing countries in the multilateral trading system.

From the vantage point of the United States, services, agriculture, and high technology goods are bright spots in our international trade position. The United States needs to build on those strengths; we need to act now to further the positive development of these important trade sectors, and thereby avoid being faced with the need for corrective action later.

Because these issues are so important to the United States, a process needs to be set in motion to develop effective rules. To that end, the Business Roundtable recommends that GATT establish work programs to deal with these issues and to evaluate the adequacy of existing trade and investment rules and mechanisms. An equally important task for the work programs will be to determine the framework for future negotiations.

IV. THE NEED TO CONSIDER SUPPLEMENTS TO GATT AND U.S. LAW

For some time, questions related to international trade and investment have been on the "back burner" in the United States. Now, I am pleased to note, a long-overdue debate has started on the fundamental principles of U.S. trade and investment policy. It embraces the future role of GATT as both an institution and as a body of rules. It addresses the adequacy of the Executive Branch's trade negotiating authority. It raises the need to expand the coverage of relevant U.S. trade laws to new sectors.

With respect to the multilateral framework for trade and investment, the debate may produce a recognition that GATT should be supplemented by either new or stronger multilateral codes and mechanisms. At this point, it is not easy to conceive of the form or substance of such supplements. The basic principles of GATT are the only ones many of us know. But, all of us must look at that system critically and be prepared to explore new ways to maintain its vitality.

As part of the debate, legislation has been introduced which concentrates on the adequacy of U.S. trade laws. The Task Force is in the process of analyzing that legislation. Part of our analysis will focus on whether the United States' real problem in many instances is not the lack of adequate authority, but a lack of political will to use the tools already available.

In addressing the coverage of U.S. trade laws, there appears to be a need to include new sectors in some of those laws. We support this initiative and look forward to working with the Congress in determining the proper scope of legislation.

Mr. Chairman, again let me thank you for the opportunity to appear here this morning. I look forward to answering your questions.

Senator **Danforth**. Thank you very much, Mr. Sticht. I have one question for you. Do you believe that if the United States makes an effort to open up the Japanese market to cigarettes that it will create a repeat of the Great Depression of the 1930's?

Mr. **Sticht**. No.

Senator **Danforth**. Thank you. Senator Matsunaga.

Senator **Matsunaga**. What do you consider the biggest barrier between the United States and Japan at this point?

Mr. **Sticht**. It would be difficult for me to generalize, but I would say U.S. companies need to have the opportunity to operate in the Japanese market on the same basis as the Japanese have to operate in the U.S. market.

Senator **Matsunaga**. Now let me ask you this: Does the Business Roundtable Task Force have bilingual, bicultural employees or representatives or negotiators?

Mr. **Sticht**. In our companies, most of them do.

Senator **Matsunaga**. They do. I think personally, from my experience in dealing with the Japanese especially, I find that the biggest barrier is the lack of a common language. We Americans expect the Japanese to learn English and we do not make an effort to learn Japanese. That is our biggest problem.

And then, of course, there is the cultural difference. I think what we ought to do is dig into the Japanese-American community get some of these experts to work on our side because believe you me, as one brought up in a Japanese-speaking, Japanese-cultured family in Hawaii, I have experienced even in my own short time the difficulty of adjusting or getting the Japan-born Japanese in Hawaii to adjust to the American ways.

For example, when you ask a Japanese is that true, and he would say no. He would say no, that is not true. He would say no. And then if you would say that is not true, he would say yes. The response to the American ought to be no, but to the Japanese, when you put a question in the negative and he agrees with you, he says yes. He says, "hai".

I have had to go before courts and have the interpreter of the court misrepresent the views of the Japanese witness and have the courts go the wrong way because of the misinterpretation on the part of the court interpreter because of this difference in language and the lack of knowledge on the part of Americans as to what the proper response is being given by the Japanese.

So, when the Japanese ask me what do you suggest we do to improve Japanese-American relationships, I say learn to speak English because you cannot expect the American to learn to speak Japanese.

Now, if we can be saying the same, I think we will have removed the biggest barrier between the two countries.

Mr. **Sticht**. Senator, I understand what you are saying. However, I pointed out that for years we had to advertise in Japan in English, not Japanese. That was not our choice. I was told the other day by one of my personnel executives—you would be interested—about 35—almost 35 percent of our employees do not speak English.

Senator **Matsunaga**. Thirty-five percent?

Mr. **Sticht**. Thirty-five percent of our 85,000 employees do not speak English. I was surprised to learn that.

Senator **Matsunaga**. Are these Americans?

Mr. **Sticht**. No. You see, almost 50 percent of our employees are outside the United States.

Senator **Matsunaga**. Oh, I see, outside the United States.

Mr. **Sticht**. My response is "Yes; we do have many people who do speak Japanese."

Senator **Matsunaga**. And I agree with you. I think we made a big mistake when we made it practically a national policy to discourage employees in foreign countries by our tax policies. We ought to encourage that so that they live there longer, learn the culture and the language.

Thank you.

Senator **Danforth**. Senator Dole.

Senator **Dole**. I am sorry, Paul, I am late, but we have three committee meetings all at 9:30, so I have not even had a chance to look at your testimony, which I will do. Thank you.

Senator **Danforth**. Senator Bentsen.

Senator **Bentsen**. Well, I would like to congratulate him on his statement because I guess we all congratulate those we find agreement with. But I really think the objective has to be to strengthen GATT itself and to find those areas where it has not been effective but, above all, probably have the political will to do what has to be done within GATT. And we just have not done that.

I think there are a number of cases where the administration—and I am not just speaking of this one—but this administration and past ones have not taken the action on section 301, that they waited on industry. But we also have to find ways also to come to a decision within those mechanics in a period of time where it is relevant.

I cited the case earlier on citrus. It has been around for 7 years or so. Ambassador Brock then talks about how you go to a 64K and then to a 256K and how technology leapfrogs ahead. And if we are not careful, whatever decision is made, through whatever legal processes we have available, will be academic. So, I believe we do have to express that.

My concern is that if we go back to bilateral approaches the whole system will come apart and I can look at us having a substantial deficit with the Japanese and turn around and look at our having a substantial surplus with the European Common Market. So, I share your objective, as I understand it in scanning through your testimony.

Do you have any specifics that you think we should do—maybe they are outlined in your full testimony—as to implementation?

Mr. **Sticht**. I would like to just make one comment. We are in the service business in my own company—and this speaks for my company, and not for the roundtable at this point. I fear that strict reciprocity could lead to such things as subsidies. For example, in the shipping industry, Sea-Land, our shipping company is fundamentally opposed to operating subsidies. We have testified many times that operating subsidies are platforms for inefficiencies.

However, if you get into the bilateral reciprocity arrangements, you could ultimately find yourself talking about subsidies and about carving up the markets on a 40-40-20 but from other proration. We believe that is the wrong approach. I am suggesting this aspect of strict reciprocity could arise with services as well as with industrial products. Reciprocity may be a valid approach, but if it gets into the areas of carving up markets or subsidies, I think it is not going to operate to the health of the countries involved.

Senator **Bentsen**. It is a tough job walking this line and trying to see that we do not get back to protectionism and still having the force to open up those markets, if countries like Japan continue to drag their feet with their nontariff barriers.

One of the things—and I would certainly stress this as a last resort—but a weapon that is available within GATT itself, and that is unbinding. Now I understand the inherent risks involved in that, but I would like to see us stay as much as we possibly can within the framework of GATT and see that we continue a multilateral approach to this.

Mr. **Sticht**. Yes. We believe that we should use GATT as a basis for considering the problems that are now not there, including agricultural and services, before we decide that is not the place for it.

Senator **Bentsen**. Thank you very much, Mr. Chairman.

Senator **Danforth**. Thank you. Senator Bradley.

Senator **Bradley**. A few months ago at one of Senator Dole's breakfasts we had a large group of very significant exporters. They made the comment that they can compete against any company in the world but they cannot compete against the country.

I asked them what do you want your Government to do? And I ask you, what do you want your Government to do to assist you in export?

Mr. **Sticht**. I go back, Senator, to the first statement. I do not think we should deal on specific item-by-item. I think we should deal in principle, and the principle involved is the objectives of allowing U.S. companies to operate on the same rules as their international competitors. You know, that is not the case.

I could give you many examples where our companies are prosecuted vigorously for not following the rules, say, in this country where their competition openly flaunts the rules, and maybe we should. I do not say we should not follow the rules. We should. But when your competitors do not follow the rules with impunity, it creates severe disadvantages.

Senator **Bradley**. So what are we supposed to do about that?

Mr. **Sticht**. I think we should utilize first the avenues that we have under GATT, for example. Right now the steel companies in this country are trying to utilize the GATT. As I hear some of the reaction, it is made to sound like the steel companies may be doing something that is improper or immoral. We need to help our country to understand that we are only trying to operate within the framework of the instruments that have been provided, and we should pursue them vigorously.

Senator **Bradley**. If we pass reciprocity legislation and the Japanese prove to be more recalcitrant than we had expected they would be in opening up their markets, what would you recommend we do?

Mr. **Sticht**. Well, first of all, reciprocity is a subject under consideration by our task force at the roundtable, so I do not have an official answer of the roundtable for you today. I am not sure that I know the answer to the question.

Senator **Bradley**. Is the issue that unless opening a market appears to be self-evident in the interest of both parties, and one party refuses to go along, then the only recourse of the other party is some form of retaliation, as I understand the concept. Is that not correct?

Mr. **Sticht**. That is correct.

Senator **Bradley**. Would you be concerned if that was indeed what develops out of this legislation?

Mr. **Sticht**. Yes, I would be concerned if that becomes a universal practice. Free market access fundamentally is the most desirable result. In the past, I know that political considerations have gotten ahead of economic or business considerations; so I would want to understand the total picture a little better before I responded to a specific matter.

Senator **Bradley**. Thank you.

Senator **Danforth**. Thank you very much, Mr. Sticht.

Senator **Bradley**. Mr. Chairman, could I submit several questions for the record for Ambassador Brock?

Senator **Danforth**. Of course.

I am sorry that it seems so quick—the 5 minutes. I know that you had much more to say, but your full statement, along with the statements of all the other witnesses, will be in the record in full and we very much appreciate your being here.

Mr. **Sticht**. Thank you very much, Mr. Chairman.

Senator **Danforth**. The next witness is Rudy Oswald.

STATEMENT OF RUDY OSWALD, DIRECTOR OF ECONOMIC RESEARCH, AFL-CIO

Mr. **Oswald**. Thank you, Mr. Chairman. My name is Rudy Oswald. I am director of the Department of Economic Research for the AFL-CIO, and I appreciate this opportunity to present our views on this very important issue.

It is our basic belief that what is at issue at this particular time is, Where should the United States go with its Ministerial meeting? We believe that that meeting should concentrate on making sure that those rules that were agreed upon in 1979 are actually being followed rather than opening up new avenues of negotiation.

At this particular time, we are very concerned with high unemployment in the United States. There are, in addition to the 9.3 million officially unemployed, 1.2 million who are too discouraged to be looking for work, and some 5.4 million people who want full-time jobs and can find only part-time jobs—nearly 16 million people who are affected.

We believe, as you look at the specifics of the codes that have been negotiated, that there are very serious problems. Clearly, in terms of the subsidies code, the continued practice of many of our trading partners, particularly in the European Community, you will find that there is a substantial continuation of subsidies. When we try to take the antisubsidy actions that are provided for in terms of both U.S. law and in terms of GATT and in terms of the steel industry, for example, we are charged with protectionism rather than enforcement of U.S. laws and the GATT. Theoretically the laws are designed to foster and protect U.S. law and GATT.

Similarly, in terms of the Government procurement code. instead of its opening the doors that we were promised, we find that, after lengthy negotiations with the Japanese in terms of Nippon Telephone-Telegraph, we have gotten so far as to have Motorola secure a contract for 500 pocket bells, of which they will only furnish 100 initially. Then the Japanese will review that arrangement some more.

In terms of a proposal for a new safeguards code in the GATT, we believe what is necessary is for the United States to use its own safeguard mechanism. There is a provision under that for limiting powerful imports during a downturn. That is what we think should be done at this particular time, during this severe recession, rather than to depend upon some new negotiations that may or may not take care of the severe impact of imports on many industries that are already reeling under the impact of the recession.

We feel that imports at this particular time should not be allowed to compound the problems that already exist in the recession for so many industries.

In terms of service industries, we believe there is authority already for the United States to negotiate in this area. We believe that more negotiations need to be taken on a bilateral basis rather than beginning working parties for multilateral negotiations where we ourselves have not defined what our goals are, nor whether they can be achieved through such negotiations.

We believe that the specific sectoral problems, in what is commonly lumped together into "services," are substantially different, one from another, and that we need to look at those and to deal with them accordingly.

Also, it was noted that "services" are interrelated with immigration problems. Currently the United States claims to have a big surplus in services. That puts us in a weak bargaining position in terms of opening up whole new negotiations in this area and we are fearful lest we trade off services for industrial problems or agricultural problems or others and that we try and deal sectorally with the specific problems in services.

I would appreciate it if my full statement could be made a part of the record.

Senator Danforth. It will be, and you have done an excellent job of summarizing your position.

[The prepared statement of Rudy Oswald follows:]

STATEMENT OF DR. RUDY OSWALD, DIRECTOR, DEPARTMENT OF ECONOMIC RESEARCH AMERICAN FEDERATION OF LABOR AND CONGRESS OF INDUSTRIAL ORGANIZATIONS ON THE U.S. APPROACH TO THE 1982 MEETING OF THE WORLD TRADE MINISTERS ON THE GENERAL AGREEMENT ON TARIFFS AND TRADE, BEFORE THE SUBCOMMITTEE ON INTERNATIONAL TRADE, SENATE COMMITTEE ON FINANCE

March 1, 1982

The AFL-CIO welcomes this opportunity to discuss U.S. plans for the next major meeting of the GATT trade ministers in November 1982, because these ministerial meetings have so much influence on international trade. The United States approach should be to emphasize U.S. rights for reciprocity and fair trade, as Congress has already directed by law. It is time to take stock of where we are. It is not time for new multilateral negotiations either for new codes or for new global negotiations on services.

Almost 16 million Americans now need full-time jobs -- 9.3 million unemployed, 1.2 million too discouraged to look for work, and 5.4 million on part-time work but wanting full-time jobs. These facts are seldom considered when assessing international trade's impact on the nation. But the AFL-CIO and its affiliates are aware that imports have been compounding the tragedy of U.S. recession and tight money. U.S. negotiators should not continue to ignore the cost of trade on this economy while ballyhooing its benefits.

The General Agreement on Tariffs and Trade (GATT) is an international agreement on general rules for conducting international trade. GATT is also the name of an international organization which administers these rules of international trade.

Since 1947, the United States government has taken part in seven rounds of tariff-cutting negotiations. The onesidedness of many GATT rules has often cost U.S. jobs and production.

The latest GATT round, the Tokyo Round, not only reduced tariffs but also clarified existing rules in at least nine codes and broadened the coverage of the GATT. Congress authorized U.S. implementation of the codes in the Trade Agreements Act of 1979.

Certainly no more codes should be completed and brought to the Congress for approval until there is some understanding of the results of the massive agreements reached less than three years ago. It is time to weigh whether the codes have resulted in what was promised when they were adopted by the Congress. If the codes do not interpret GATT rules in a way that is fair and beneficial, more codes will only add to that inequity.

Certainly the U.S. trade patterns fail to show benefits: while the export-import balance appears only slightly worse in the past year, the composition has changed.

While imports of manufactured goods rose 13 percent in 1981, exports of manufactured goods were up only 7 percent. There has been inadequate attention to the composition of exports. The dollar value of exports does not tell the full story in terms of jobs and products. For example, the U.S. exports much raw material involving relatively little labor instead of manufactured goods and processed foods which require considerable labor input.

The AFL-CIO Convention in November 1981 stated:

> "The multilateral trade codes adopted in 1979 require constant monitoring and the enforcement of U.S. rights. Only the negotiated provisions should be enforced, particularly in the area of government procurement, where many U.S. agencies, state and local governments were specifically exempted from the requirements of the codes."

But such monitoring has not taken place. Nor has there been enforcement of U.S. rights.

In each code, it seems there is a Catch 22 that apparently can protect foreign countries which interfere with U.S. trade rights, while the U.S. producer and worker group are unfairly disadvantaged.

The implementation of the subsidies code has raised major problems, some of which we have already detailed for this subcommittee. The code states that subsidies on manufactured exports are a violation of GATT. But the definition of subsidies and the implementation have not resolved the problems created by subsidized trade.

One of the major concessions during the 5 years of negotiations of the MTN was the demand by our trading partners -- principally the European Communities -- for an injury test in this subsidies code. The U.S. agreed to change its law that required a countervailing duty on imports which had been subsidized. The U.S. changed its law in 1979. When the steel industry sought relief in 1979 under the code, it was charged with protectionism, and U.S. law was not carried out. Now three years later, subsidized steel products are entering the U.S. at an even greater rate and while the complex procedures are now underway, no relief has been granted.

More recently, promises to the Congress on subsidized imports from developing countries have been broken. Countries are allowed an injury test by the U.S. government even if they do not agree to abide by the code or to phase out their subsidies.

The posture of the U.S. as an inept negotiator, turning industry after industry over to foreign producers who ship subsidized exports to the U.S. has a devastating effect on American firms and workers whose production and jobs are lost as a result.

This current state of affairs has nothing to do with free trade or with sensible foreign relations. Instead, each country seeks to be exempted from any obligations because other countries have been excused. But the U.S. is held to GATT obligations as if fixed in concrete. That is a one-way street.

A similar one-way street exists for the government procurement code.

The government procurement code was heralded, for example, as the promise of $80 billion in U.S. exports. Instead, the details of the code which were carefully negotiated are virtually unknown and not enforced. Massive U.S. exports have not developed, and massive U.S. imports have been encouraged.

The code specifically does not apply to state and local governments in any country. But members of two administrations now have advised the states that it would be a violation of the "spirit of the code" to have Buy American legislation. Thus the code has been used to promote U.S. imports -- not to promote U.S. exports.

A key negotiation for implementation of the code with Japan was an agreement on telecommunications. But after three years of trying to get contracts with Japan's Nippon Telephone and Telegraph Company (NTT), the only contract is one by Motorola for 500 pocket bells. (Business Week, December 1981) A later report indicated that only 100 could be sold now. The rest had to be tested or go through some other procedure. Thus a vast telecommunications market is effectively closed to U.S. exporters, while U.S. orders for virtually every type of government purchase are still granted to foreign bidders at the expense of U.S. producers.

Full reporting on government procurement is overdue. Vague reference to the "codes" or to "international obligations," give no clear answers about what the codes mean or what the U.S. obligations actually are.

The aircraft code reduced U.S. tariffs on aircraft and many aircraft parts to zero immediately. But other nations have continued to subsidize their aircraft production and it is not clear whether their tariffs have been reduced in the same way.

The licensing code should be reviewed in detail. The MTN included a code to determine what the rules should be for licensing imports -- a practice many nations follow. This is not a free trade practice. The requirement for a license in order to import amounts to a restraint on trade, however it is practiced. It restrains U.S. exports. But other countries would only agree to sign a code on certain rules about how licensing would be conducted, not on ways to abolish licensing. Unless the other nations can show that they have lived up to this code, there should be U.S. action to retaliate.

Other codes on customs valuation, dairy arrangements, and bovine meat arrangements and the Group "Framework" had all been agreed upon by April, 1979, three years ago. It is time for a review of what has happened to each in detail and what the future prospects are for developing reciprocal trade. Instead there seems to be little monitoring and no clear information about all of these agreements.

Until such reviews are satisfactorily resolved, no new codes should be completed.

The code on "safeguards," which was not finished in 1979, could be a deterrent to effective action under the GATT rule that already exists for "safeguards" to protect industries that are suffering from the assault of harmful imports during this downturn. Article XIX of the General Agreement on Tariffs and Trade allows each GATT member to take temporary action to restrain imports that are threatening to injure a domestic industry. America needs "safeguard" action now. A new code is not needed. But enforcement of existing U.S. law is needed. Instead, the interpretation of U.S. law makes proof of injury even more burdensome than Article XIX requires. The result: no help when industries need it.

No injured industry has ever achieved the relief it sought under Section 201, which is the "safeguards" section of the U.S. law. Since the 1974 Trade Act was passed, only 9 of 45 cases have received any restraint on imports. The ITC usually recommends less than industry seeks -- be it quotas or tariffs or tariff quotas -- and the President either ignores the International Trade Commission's recommendation altogether or grants less than it calls for.

Specialty steel, color TV, shoes, industrial fasteners -- nuts, bolts and screws -- are examples of the industries where relief has been phased out or phased down.

These are just a few examples of major industries that are affected. Small producers of parts essential to these industries usually get no relief at all.

U.S. basic industries, already in need of revitalization, have been severely injured by the impact of expanded imports on top of the recession. Steel has suffered import penetration of about 20-25 percent of the U.S. market since last August. Auto imports in 1981 increased their share of a falling market to 31 percent in January. Apparel imports were over 33 percent of the market. Machinery and machinery parts imports caused new concern in a weakened market. With import pressure mounting, virtually every type of manufacturing and related services felt the brunt of lost orders both at home and abroad.

Under current procedures, the cost, the data requirements and the complex legalisms are so difficult to overcome that injured industries and groups of workers cannot afford to bring actions for relief from inrushes of imports or dumping. This is not fair trade policy. This policy of inaction leads to more unfair trade. The law should be enforced, improved, and emergency procedures established to prevent the outrush of key industries, especially during this recessionary downturn.

Meanwhile, foreign nations retain their trade barriers, make temporary and permanent provisions for new barriers to trade and ignore Article XIX. The Europeans have restraint agreements on Japanese steel, autos, etc. The U.K. has announced it will act to curb flooding imports. The Japanese have raised their commodity tax on autos and protected their aluminum industry.

A vague, new code on safeguards to weaken these options would worsen already unfair conditions. America does not need a new code. It needs to act to save its industries.

The AFL-CIO supports efforts to help U.S. service industries attain access to foreign markets in specific cases and to deal with specific problems involved. But the diverse industries in services do not add up to a whole "sector" that can be discussed in an entirety in global negotiations. Neither the U.S. nor its trading partners has done enough homework to launch a global negotiation by starting "working parties," to list trade barriers in services at the next GATT Ministerial meeting in November.

Services represent a huge combination of issues too long overlooked in trade policy. For U.S. banks, shipping companies, airlines, broadcasting, advertising, insurance and many other types of firms, the policy issues seem clear: discrimination against their foreign expansion calls for action by the U.S. government. But a clear definition of the "sector" is not available anywhere.

For many years, AFL-CIO policies have also called attention to effects at home. Seven out of ten U.S. jobs are now in "services." American seamen were the first to experience the export of service jobs after World War II. The AFL-CIO does not want to see jobs in services -- now the majority of jobs in the U.S. -- traded away as manufacturing jobs have been.

A commitment to overall negotiations in services, therefore, should await more specific solutions through bilateral negotiations and action to solve American service problems in trade -- both at home and abroad. While trade laws already provide authority to act and negotiate on services, the authority has not been used to get enough experience or solve enough real problems to give a realistic basis for overall negotiations. To make America wait for another five years for the hope of global negotiations -- whatever they may mean -- will assure that specific problems in specific service sectors will continue to get inadequate attention. Problems for airlines, shipping companies, credit card companies, etc., need solutions -- not global negotiations.

Immigration policy is an integral element when services are discussed in distinction to when products are negotiated. But there is no recognition of this problem in the vague talk about services negotiations.

Negotiations involve concessions, but concessions that would be considered by service negotiators have been virtually ignored. Personal privacy, for example, is an issue in terms of "free trade in data transmission" abroad. Do we want to forfeit personal privacy in the U.S. to get help for data transmission from abroad? A code won't solve this. The issue of requiring that nationals perform certain jobs is a major complaint of the U.S. service industries about "barriers" they face abroad. Does the U.S. want to give up U.S. standards for lawyers, doctors, accountants, nurses, electricians, etc? Services involve human beings. They are not tradable digits.

The United States cannot afford to urge all the rest of the nations to come to the table to negotiate by proclaiming that the U.S. has a trade surplus in services. But the dollar volume of the "service" account is heralded as a surplus because the current account is in surplus from dividends on foreign investment or because the statistics report profits of U.S. industries (not necessarily returned to the U.S.) as a huge "surplus." That gives the U.S. a weak bargaining leverage and diverts attention from, and delays or prohibits action on, specific current problems.

Other deficiencies of data in the service sector also make global negotiations unrealistic. The statistical reporting of employment is different nationally and internationally. The "services" now being discussed are not necessarily "services" in U.S. employment statistics. Construction employment is considered a set of "goods production" industries in the U.S. nationally but is considered "services" internationally.

There has been no attention to the kinds of employment already lost or jobs that will be gained by expanded services internationally. Nor has there been any recognition that dollar volume of service transactions does not necessarily imply a proportionate relationship to gains in employment. It may in fact be negative. Particularly in high technology industries, the transfer of jobs to other countries may accompany "sales" of services.

The United States should, therefore, go to the ministerial meeting to examine how the GATT agreements are working and with the intention to assure the reciprocity that is implicit in the GATT and stated in U.S. law. New codes and new issues should await specific efforts and specific actions to solve current problems.

The U.S. needs to place temporary restrictions on harmful imports during this recession. It needs to vigorously enforce the reciprocity provisions of the Trade Act. The fashioning of new remedies to assure a strong and diversified U.S. industrial structure is essential for America's well-being.

Senator Danforth. *Senator Dole.*

Senator Dole. I have no questions. I believe I agree with much of what you say. I have not had a chance to read your entire statement, but thank you very much.

Senator Danforth. Senator Matsunaga.

Senator Matsunaga. I just wish to commend Dr. Oswald for his statement and I appreciate your support of the GATT negotiations. Thank you.

Mr. Oswald. Mr. Matsunaga, you summarized part of our position before when to a previous witness you indicated a need for enforcement of the current rules. I think, unless this upcoming Ministerial concentrates on that, we will never have enforcement of those rules, while we keep on negotiating some future changes that may never have the effect that we were promised in the 1979 round of negotiations.

Senator Matsunaga. I am glad you agree with me.

Senator Danforth. In 1979, Mr. Oswald, in order to get labor on board for the Tokyo round in the trade agreements, an effort was made to represent what the effects of the Toyko round would be. I take it that your testimony now is that you are somewhat disappointed as of this point in time.

Mr. Oswald. We are certainly disappointed that the subsidies code, which promised to bring about quick action in terms of how it works has not taken place. We do not find the Government procurement code has been lived up to, and we are very concerned with many of those elements, plus, of course, you know our concerns with trade adjustment assistance, which was also a promise to take care of those who were injured by those changes.

Senator Danforth. Thank you very much, sir.

Our next witness is Mr. William Walker. Also appearing with Mr. Walker is Mr. Harald Malmgren.

Mr. Walker.

STATEMENT OF WILLIAM WALKER, JUDGE, ROSE, GUTHRIE & ALEXANDER, NEW YORK, ON BEHALF OF THE AMERICAN COUNCIL OF THE INTERNATIONAL CHAMBER OF COMMERCE

Mr. Walker. Thank you, Mr. Chairman. Since the time is late, I will summarize the remarks that I have prepared for the U.S. Council of International Business, formally known as the U.S. Council of the International Chamber of Commerce.

Briefly, the position of the Council in terms of the upcoming GATT Ministerial is that we have five specific agenda items which we feel are important for the successful completion of negotiations: first, strengthening the safeguards clause; second, completion of negotiations on, the anticounterfeiting code; third, an active work program to expand GATT authority over international trade in services; fourth, action to address trade problems related to investments; and, fifth, further improvement in trade relations with developing countries.

There are a series of ICC resolutions which I have submitted to the staff as an addendum to my prepared statement, which I also ask be made a part of the record.

Mr. Chairman, let me, however, speak, if I may, to the subject that has occupied a good amount of the committee's time today, and that is the means with which we deal with the GATT and the role of the GATT in international trade.

We have patted ourselves on the back a good deal this morning on the extent to which the United States is in compliance with the GATT and the extent to which others are not in compliance with the GATT and, therefore, that what is needed is to enforce our rights under the GATT, and what that represents—and because that has not taken place, we feel the need, some of us, for retaliatory reciprocity.

First, having sat across the table as an American negotiator from the Europeans and Japanese and others, I have heard their arguments, and while I do not agree with them, I do not think they can be rejected as simply a failure to accede to the GATT.

Second, to the extent that we are dealing with problems that are not a part of the GATT, as to which there is not yet a GATT position, where there is not yet GATT authority, to the extent that we act unilaterally and not on the basis of an international consensus, we risk, in my view, retaliation against ourselves, against our own trade, against, particularly, our agricultural trade, where we have an enormous surplus.

It seems to me that when we begin talking about retaliatory reciprocity we have to recognize that it is very much a two-edged sword. If one looks at American trade, for example, today, behind the $40 billion trade deficit that we have in our merchandise balance of trade is masked a rising trade surplus. That is to say, if one takes out our petroleum imports, which are a somewhat separate category, one sees a rise in American exports of agricultural and manufactured goods relative to our imports of manufactured and agricultural products, that is dramatic.

We would have had, last year, a $50 billion trade surplus if one takes that component out. Now that is somewhat an artificial exercise, but it is important in terms of evaluting the competitiveness of American exports overseas.

Therefore, while we have, it is true, a very large trade deficit with Japan—$18 billion—we have a trade surplus with the European Community this past year on the order of $14 billion, a year ago on the order of $20 billion, and we have had a trade surplus with the European Community every year since its inception in 1958, save only one.

While it is true that the European Community has a number of objectionable trade practices, it is not true, in my view, that we are suffering so unduly from those practices that we are unable to compete with them effectively. Indeed, their deficit with us is as large or larger on a proportional basis than our deficit with Japan.

Consequently, to summarize my comments, Mr. Chairman, I think it is unwise to launch precipitously upon the path of retaliatory reciprocity because it may lead to an unravelling of the existing system, and in answer to the question that you asked for a one-word answer, "Can that lead to protectionism?" "Maybe," I think, is a better answer.

How is that for timing?

Senator **Danforth**. Thank you. We will launch, but not precipitously. Mr. Malmgren.

[The prepared statement of William N. Walker follows:]

STATEMENT
OF
WILLIAM N. WALKER
ON BEHALF OF
THE U.S. COUNCIL FOR INTERNATIONAL BUSINESS
BEFORE THE
INTERNATIONAL TRADE SUBCOMMITTEE
OF THE
SENATE COMMITTEE ON FINANCE
MARCH 1, 1982

Mr. Chairman and members of the Committee: My name is William N. Walker and I am a Partner in the law firm of Mudge Rose Guthrie & Alexander. From 1975 to 1977, I was Deputy Special Trade Representative and served as Ambassador and Head of the United States Delegation to the Tokyo Round of Multilateral Trade Negotiations.

I appear today as a spokesman for the United States Council for International Business, formerly known as the United States Council of the International Chamber of Commerce. This is our first occasion to appear before this Committee under our new name and we are particularly pleased to do so in response to your request for the views of the American business community on the approach of the United States to the GATT Ministerial meeting, scheduled for November 1982, in Geneva.

The Council is an organization composed of 250 multinational companies and is the United States national affiliate of the International Chamber of Commerce, recognized throughout the world as the spokesman of international business. The ICC works in an advisory capacity with a wide range of intergovernmental organizations such as the United Nations, the General Agreement on Tariffs and Trade (GATT), the International Monetary Fund (IMF), the

Organization for Economic Cooperation and Development (OECD), and the European Community (E.C.).

The United States Council is the only major United States business association that concentrates solely on the international marketplace. As such we have developed a close working relationship with numerous trade experts, and we are pleased to have the opportunity to share our views regarding preparations for the 1982 GATT Ministerial.

For the record, Mr. Chairman, I want to submit at this time a document entitled "International Trade Policy: Review, Prospects and ICC Recommendations' adopted by the International Chamber of Commerce on April 6, 1981.

The U.S. Council believes this forthcoming GATT meeting is very important and we have a number of specific items which we feel strongly should be included in the Ministerial deliberations. But, before focusing on specific agenda items, we wish to dwell briefly on the importance we attach to the institutional environment in which international trade is conducted. In particular, we are concerned at the apparent erosion of U.S. support for the fundamental institutional arrangements in GATT which have contributed to the rapid increase in trade during the post-war period, and we wish to comment first on that concern.

We are mindful, Mr. Chairman, of the shortcomings of the GATT and its imperfections as an institutional arrangement. For example, the fundamental tenet of most favored nations treatment has been undermined by the establishment of regional trading groupings, customs unions, and GSP, to such an extent that nearly three-quarters of world trade is now conducted on restrictive terms inconsistent with MFN. Similarly, nations have increasingly resorted to policies falling outside the ambit of the GATT -- so-called voluntary export restraint agreements, for instance, some of which are public and others of which are clandestine. There are other failings as well -- not least among them the collapse of the fixed currency exchange rate regime that introduced new elements of uncertainty into the arena of international trade which the GATT does not adequately address. Trade, finance, and investment are no longer separate pigeonholes which can be treated in isolation but rather interact with one another in dynamic ways which are not well-understood and which neither government bureaucracies nor the GATT are well equipped to cope with. And, or course, we now confront rates of inflation and of unemployment which were unthinkable only a few years ago, and we are struggling to pay for energy costs that are more than ten times higher than a decade ago.

But even in the face of this litany of economic woe, the U.S. Council is struck by how well the GATT has done. Like the fable of the bear that learned to dance, the wonder was not that he danced so badly, but that he danced at all! Given the global economic shocks of the past decade, the GATT could very well have collapsed. Look what happened to Bretton Woods, which did just that.

While the GATT did not exactly prosper, it did survive and even presided over the successful completion of the first-ever negotiation to begin imposing discipline over a variety of non-tariff barriers to trade, and a further dismantlement of tariffs, primarily on manufactured goods. And now it has been charged with undertaking still further international trade responsibilities in a manner to be decided by the Ministers who will gather in Geneva in November. It is a not unimpressive performance and one which the U.S. Council hopes both the Congress and the Administration will pause and reflect upon before undertaking initiatives which may weaken the GATT, or diminish its stature.

The American business community has profited handsomely from the GATT-dominated international trading environment of the past twenty-five years. Through the genius of the enterprise system, that profit has benefitted citizens of the United States and other countries around the world. Despite its inconsistencies, its loopholes, and its pragmatic vagueness, the GATT has enforced a modicum of discipline against protectionism in favor of liberal trade policies. This is a process very much in our interest and which the U.S. Council strongly supports.

In that connection, we feel it is important to point out the extraordinary increase in the significance of export trade to the United States economy. U.S. exports last year totaled $233.7 billion up from $115.0 billion, in 1976, and from only $44.1 billion a decade earlier in 1971. Exports account for about 14% of U.S. GNP today, nearly three times their share a decade ago. Nearly one job in every five in the U.S. manufacturing sector is for export, and nearly half of America's agricultural production is for export.

It is true that the U.S. trade balance has been in serious deficit since 1977, and this year is expected to hit a record of $41 billion. But a large portion of that deficit represents imports of crude oil and refined products to fuel our economy. If one subtracts fuel imports from the U.S. trade balance, the picture shifts dramatically from one of rising deficits to one of growing trade surplus. Moreover, if one adds to this the current account surplus from trade in invisibles and from investment inflows, a picture far more positive than the one usually sketched is clearly apparent. Indeed, the U.S. trade picture is plainly improving overall.

U.S. Merchandise Trade Balance
(F.A.S.; billions US $)

	Total	Total minus Petroleum
1976	- 5.9	+25.2
1977	-26.5	+14.4
1978	-28.4	+ 7.5
1979	-24.7	+29.3
1980	-24.3	+51.5
1981	-27.6	+45.4

Source: Department of Commerce

U.S. Current Account Since 1976
Major Components

	Merchandise Trade Balance	Net Investment Income ($ Million)	Services Trade Balance	Other*	Current Account Balance
1976	-9,306	15,975	2,154	-4,439	4,384
1977	-30,873	17,962	1,890	-3,089	-14,110
1978	-33,759	21,400	2,613	-4,329	-14,075
1979	-27,346	33,463	1,837	-7,540	1,414
1980	-25,342	32,762	5,874	-9,571	3,723
1981, Jan to Sept	-18,629	27,276	4,135	-6,277	6,505

* Includes U.S. military agency sales, direct defense expenditures, and unilateral transfers such as foreign aid, U.S. Government pensions and other official and private transfers and remittances.

It is still true, of course, that there are sectors of the American economy where difficulties persist, international competition is painful and further modernization remains essential, the steel and automotive industries being the two most obvious cases in point. Even in the high technology field, U.S. companies cannot rest on their laurels and must remain aggressively competitive.

But overall, the U.S. Council does not share the gloomy assessment of our trading posture that seems to be so prevalent in Washington today. The U.S. economy is, after all, in a period of recession and we are coming off nearly a decade of markedly lower growth than we were accustomed to in the 1950's and 1960's. There are obvious problems of adjustment domestically as well as internationally. It should come as no surprise that, we are witness to siren songs of protectionism overseas as well as at home.

The U.S. Council wishes to go on record as stoutly resisting adoption of protectionist trade policies by the U.S. government. We believe such an approach would be shortsighted and in conflict with American economic interests. Indeed, we believe the U.S. is realizing sizable economic gains from its foreign trade sector for the reasons set forth above.

Thus, the U.S. Council urges caution in adopting trade policies based upon the concept of reciprocity and embodying notions of retaliation for non-reciprocal behavior. Reciprocity has no grounding in international legal principles (except for the concept of nullification and impairment embodied within the GATT itself which is subject to important procedural thresholds). Moreover, reciprocity could become a two-edge sword. For example, we may want reciprocity in the case of Japan, where last year we had an $18 billion trade deficit, but do we want it with the European Community where we have had a trade surplus nearly every year since it was formed in 1958, and where last year we had a $14 billion surplus? Or, do we want to apply reciprocity to our trade with certain developing countries where we enjoy a very large advantage?

The U.S. Council understands very well the frustrations which have led policymakers to consider retaliatory reciprocity as a means of affecting behavior. Many members of the Council have their own personal horror stories about particular trade burdens they have been forced to endure overseas. Moreover, the Council strongly endorses a policy of persuading the Japanese to increase substantially access to their home market for manufactured exports as well as other U.S. policies designed to remove trade obstacles in overseas markets.

The Council intends to study the various bills which have been introduced in the current session of Congress dealing with the subject of reciprocity and we will doubtless testify on these matters. And while we do not wish to prejudge that subject at this time, we do want to issue a note of caution against injecting the subject of retaliatory reciprocity into the upcoming GATT Ministerial Meeting. We do not believe that doing so would be a productive endeavor and that indeed it would not only be divisive, but would also divert attention from what we believe to be an important substantive agenda which the Ministers should address and on which we hope progress can be made.

Mr. Chairman, we hope the United States will approach these important discussions with a positive and constructive attitude and with a renewed commitment to the GATT process, frustrating and imperfect though it is. As we become more and more dependent upon foreign markets for American products, it increasingly behooves us to seek accommodation with those trading partners who are our important customers. We are no longer a nation sitting in continental isolation which can afford the luxury of unilateral action. We are now intimately bound up with the international trading network. We no longer have the power alone to dictate the terms under which much of that trade takes place. We must curb impatience, understand where our interests lie, and pursue them with both persistence and consistency.

We now turn to the specific items which the U.S. Council hopes the United States will insist upon including in the GATT Ministerial agenda, and as to which we believe progress is important. We begin with two items of leftover business from the Tokyo Round.

1. **Safeguards** The United States Council continues to believe that revision of article XIX of the GATT to strengthen the discipline against restrictive measures imposed by states to safeguard their domestic industries from injurious competition is an essential objective. We hope the United States will be able to persuade the European Community to abandon its insistence upon unrestricted selective application of safeguard measurers; at the same time, we have some sympathy for the view that where particular nations are peculiarly responsible for serious injury, more severe measures may properly be taken as to them by comparison with other nations whose contribution to the problem may be marginal or, at any

rate, considerably smaller. We urge the United States to redouble its efforts to bring about agreement on this subject since a hole in the safeguards clause represents a very serious leak below the waterline of the GATT.

2. **Counterfeiting** Both the U.S. Council and the International Chamber of Commerce are on record in formal Resolutions condemning the scourge of commercial counterfeiting, urging governments to take action to deter this practice and, in particular, encouraging the broadest possible acceptance and application of the anticounterfeiting code which was unfinished at the time of the Tokyo Round Agreements. I am submitting as an exhibit to this testimony the text of a Resolution adopted by the International Chamber of Commerce in June of 1981 to this effect.

The U.S. Council is informed by the Office of the U.S. Trade Representative that adoption of the international anticounterfeiting code will be among its high priorities in the forthcoming Ministerial Meeting. We earnestly hope that this is the case and we urge this Committee to exercise its oversight and participatory role to ensure that the anticounterfeiting code continues to be among the highest U.S. trade policy objectives in the forthcoming meeting.

3. **Services** The U.S. Council strongly endorses U.S. efforts to broaden GATT coverage to the services sector and believes that such a new initiative should be the centerpiece of the upcoming Ministerial Meeting. The economic significance of this sector is emphasized by the following figures.

- o In 1979 -- the latest year for which we have full information — services constituted 66 percent or two thirds -- of our economic pie. In comparison, manufacturing represented 23 percent of our GNP. The farming slice was 3.2 percent; mining, 2.9 percent.
- o With the positive contribution of services, the U.S. balance of payments has been growing steadily — while the balance for goods had been declining. During the past three years our services exports have been responsible for U.S. current account surpluses.
- o Services are a growing force in world trade. In fact, they now account for 20 percent of all world trade. And the United States is the world's largest exporter of services. Last year, our service exports -- ranging from advertising to insurance to health care -- amounted to at least $60 billion.

In the past, trade policy has been targeted on promoting the export of manufactured goods and on dealing with the problem of foreign manufacturers invading vulnerable domestic markets. We and our GATT trading partners need to broaden our trade objectives. We need to focus on barriers that confront our exports of services, as well. I would like to introduce for the record at this point a position paper adopted by the International Chamber of Commerce advocating liberalization of international trade in services.

The potential for growth in U.S. services exports is tremendous -- as long as foreign markets remain open. But barriers -- both visible and invisible -- to trade in services are in place and are growing. As the world economy undergoes serious strains, these barriers will multiply. Particularly threatening and disruptive barriers are restrictions on what we call transborder data flows -- that is, the flow of information across national borders. Rapid data transfers across national boundaries and across oceans have become commonplace -- and vital to businesses, domestic and foreign.

A number of U.S. Council member companies and others have supported proposed legislation to modify U.S. laws to take full account of the interests of the service sector and to expand our international trade laws to cover services, The Trade in Services Act of 1982, S.2058, H.R. 5383).

We urge this Committee to help Ambassador Brock persuade our GATT trading partners to join in an active GATT work program to explore practical steps that can be taken to broaden the GATT so as to embrace the services sector to the largest extent possible.

4. **Investment** The U.S. Council strongly supports the free flow of capital and opposes investment restrictions. We are particularly disturbed by the proliferation of restrictive practices such as local content and performance requirements which have serious trade-distorting effects.

The Council recognizes the importance of a meaningful dialogue on international investment issues. Our chief objective is to avoid short term nationalistic approaches to investment, and we feel the GATT could make a positive contribution in this regard. Therefore, we would encourage this committee's support of Ambassador Brock in his efforts to secure considerations in GATT of the serious problems resulting from trade-related investment barriers.

5. Developing Countries The U.S. Council places a high priority on increasing the participation of developing countries in the global trading system. The U.S. Council believes that the GATT Ministers should continue to address the procedures by which the developing countries gradually assume fuller GATT responsibilities. We hope this can be accomplished without resort to the tiresome polemics of the New International Economic Order. We point out that fully 35% of American export trade is today carried on with the developing world and we urge the American Delegation to the GATT Ministerial Meeting to seek to engage these discussions on a pragmatic basis aimed at opening markets and removing obstacles to increased trade with developing countries. In that connection, the U.S. Council hopes the Ministers will encourage those developing countries which have not yet done so to adopt the various non-tariff

measure code which were agreed to as part of the Tokyo Round Negotiations.

In closing, therefore, Mr. Chairman, the ICC wishes to reemphasize its support for the GATT and for policies that add to its international stature. We urge the United States, at the Ministerial Meeting next Fall, to advocate adoption of a work program which will yield a new agreement on safeguards, conclusion of the agreement on counterfeiting, rapid action on trade and services and in the field of investment and further progress in dealings with the developing countries.

Economic Secretariat
1981-09-30 MCP/IAM

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COMMISSION ON INTERNATIONAL TRADE POLICY AND TRADE-RELATED MATTERS

POSITION PAPER ON LIBERALISATION OF TRADE IN SERVICES

Statement adopted by the Commission. At its meeting on 30 September, the Executive Board of the ICC granted the Secretary General advance authorisation for the immediate release of this document.

1. In almost all industrial countries and in much of the developing world the service sector has significantly increased in importance over the last thirty years. By 1978 the contribution of the service sector to Gross Domestic Product was at least as important as that of the industrial sector for nearly all GATT contracting parties, and its importance as a source of employment increased accordingly. As with merchandise, a large part of this service activity does not give rise to international transactions, but in many industries international business has also greatly expanded, and now represents a considerable share in trade flows. Between 1967 and 1975 world trade in services increased by about 6 per cent per annum in real terms, and by 1975, exports of services represented over 20 per cent of total exports of goods and services for all countries.

2. Much of this service activity is not conducted purely for its own sake, but is also an essential adjunct to international trade in raw materials and manufactured goods. Though many of the impediments to a free flow of goods have been removed or significantly reduced by the rounds of multilateral negotiations under the auspices of the GATT, many service industries, including, for example, not only the more traditional areas of construction and engineering services, insurance, banking and financial services, legal and medical services and transport,

but also tourism, franchising, information and data services, leasing and consultancy, still confront severe government-imposed obstacles to their international operations. These restrictions not only reduce the efficiency of services trade, but also produce unfair competition among the service industries of different nations, and introduce cost distortions into trade flows of goods. At present these restrictions cannot always be identified or remedied. This is partly because as yet there does not exist an agreed international standard for the treatment of services, which makes it difficult to define the remedies appropriate to resolving problems of unfair competition.

3. A progressive and comprehensive liberalisation of international trade in services is now therefore timely and necessary to reduce the present distortions in such trade. Liberalisation of services trade, permitting greater access for service industries to exercise their activities in foreign markets would act as a stimulus to international trade, and would also often have an innovative effect in local service industries and thus contribute to economic development. The International Chamber of Commerce, with members in over one hundred countries, therefore urges governments of both developed and developing countries to respect and fully implement existing agreements providing for the liberalisation of services trade, and to begin the preparations necessary for mutually advantageous negotiations to reduce impediments to international trade in services on a multilateral and, wherever possible, reciprocal basis.

4. Circumstances in individual countries and existing arrangements in some service markets will influence the pace at which liberalisation can be pursued. At least initially, therefore, the liberalisation of services trade implies:

i) that all such trade be conducted according to the principles of fair and open international competition;

ii) that internationally traded services originating from any country be subject to equal treatment by the recipient nation (the most-favoured nation principle);

iii) that, where they are not in the wider interests of the service user, restrictions on the ability to purchase services across national borders be reduced in as far-reaching and as reciprocal a manner as possible;

iv) that the above principles, and any departures from these principles which are deemed necessary during the transition to a fully liberal services trade system be subject to periodic review and negotiation; and

v) that new limitations to the international free movement of services be avoided as far as possible, and that if a situation were to arise calling for further restrictions, such restrictions be temporary and subject to prior consultation and negotiation.

5. The ICC welcomes the efforts made in a number of circles to compile information on the trade effects of restrictions on international service transactions, and on specific problems faced by individual industries. It hopes that such efforts will continue. However, the ICC believes that, in addition, it is now necessary to develop practical methods and procedures to eliminate the major impediments to international trade in services, or, at least, to greatly reduce their effect.

6. In spite of the differences in activity among the different service industries with international interests, the ICC believes that the underlying principles of liberal trade and fair competition are common to all. Thus, although the impediments to liberal trade in individual service industries might appear different in their detailed application, it is possible to classify them as departures from these underlying principles, in terms of major non-tariff barriers to trade applying to all industries. The ICC therefore puts forward such a classification, which is not exhaustive, which might profitably be used in conjunction with the data at present being compiled in several quarters to develop a framework of obstacles to trade in services which would then serve as a basis for a negotiated liberalisation of this field. (This classification is included as an annex to this document).

Recommendations for Action

7. In the long term, any effective and comprehensive liberalisation of international trade in services must be conducted on a multilateral basis. The extension of the GATT to include trade in services represents the most effective method of achieving this liberalisation for the following reasons:

i) International trade in goods - which is already covered by the GATT - and international trade in services are governed by the same underlying economic principles, and in many cases the impediments involved - subsidy and regulatory practices, government procurement procedures, technical standards and licences - are similar. The impediments which are more specifically related to trade in services can still be regarded as non-tariff barriers, and should be tackled in a similar manner to the non-tariff barriers discussed during the Tokyo Round.

ii) The application of the most-favoured nation principle espoused in the GATT ensures that the benefits from liberalisation will accrue to all nations.

8. The ICC therefore calls upon all governments to accept that the principles espoused in the GATT system for the regulation of world trade be extended to cover trade in services, and urges them to begin preparations towards multilateral negotiations to reduce existing impediments to international trade in services and to create an accepted framework for the conduct of liberal trade in services. There have been proposals for a Special Session of the GATT Contracting Parties in 1982, at which trade in services would be one of the items for discussion, and this initiative is welcomed by the ICC. The classification of non-tariff barriers to trade in services set out in the annex demonstrates that many of the obstacles to services trade are similar in principle for many industries (eg. the existence of subsidies which distort competition, administrative impediments to operation, etc) and it is therefore possible for the principles of a liberal framework for services trade to be negotiated on an overall multilateral basis, in a similar fashion to the negotiation of the principles espoused in the Codes on non-tariff barriers agreed during the Tokyo Round. This is but a first stage, however,

and does not imply that the application in practice of the regulatory measures required for liberalisation will be necessarily of an across-the-board character, as in certain instances the regulation resulting from negotiated agreement on the basic principles for liberalisation will have to be tailored to meet the specific operating characteristics of the different industries involved.

9. However, the acceptance that the principles espoused in the GATT should be extended to cover trade in services does not imply the exclusion of other fora from this process of liberalisation in the short-term. Important work for trade in services has already been undertaken in other circles, notably the Declaration and Decisions on International Investment and Multinational Enterprises adopted by the Governments of the OECD countries in 1976, and the contribution of agreements in such fora to the liberalisation of trade in services should not be underestimated or ignored. The ICC welcomes the initiative taken in the meeting of the Ministerial Council of the OECD of June 1981, where

> "Ministers expressed the wish that the ongoing OECD activities in the field of services be carried forward expeditiously. They agreed that, in the light of the results of these activities, efforts should be undertaken to examine ways and means for reducing or eliminating identified problems and to improve international co-operation in this area".

In addition, in the absence of overall multilateral agreements, a large measure of liberalisation could also be achieved in the shorter term through a series of industry-specific negotiations. Certain governments are already committed to a liberalisation of trade in services, and the ICC encourages them to enter and expand negotiations with other governments. In addition, certain industries are already regulated by intergovernmental or inter-industry agreement, and initial liberalisation measures might be negotiated using the existing regulatory institutions.

10. The ICC fully recognises that an overall multilateral agreement will require a lengthy period of comprehensive preparation. Therefore, it recommends two specific issues which might be tackled immediately to produce solutions in the near future as a first stage in the progressive liberalisation of services trade. These recommendations do

not imply, however, that other obstacles to services trade are not of equal importance to certain industries, and the ICC hopes that, wherever possible, advances in the liberalisation process might also be made in these other areas at the same time.

i) Government procurement

An Agreement on Government Procurement was negotiated during the Tokyo Round of Multilateral Trade Negotiations under the auspices of the GATT. The Agreement, which entered into force on 1 January 1981, contains detailed rules on the way in which tenders for government purchasing contracts should be invited and awarded. It is designed to make laws, regulations, procedures and practices regarding government procurement more transparent, and to ensure that they do not protect domestic products or suppliers, or discriminate among foreign products or suppliers.

At present the Agreement applies primarily to trade in goods, as services are only included to the extent that they are incidental to the supply of products and cost less than the products themselves. However, the Agreement specifically mentions the possibility of extending its coverage to services contracts at an early date.

The ICC therefore urges all governments to respect and apply fully the existing Agreement, and calls upon contracting parties concerned to prepare negotiations, taking into account the experience of the present Agreement, with a view to including services procurement in the Agreement, and to make the list of government entities which would be covered by the Agreement as wide as possible.

ii) Legal establishment and access to markets

The rights of legal establishment and of access to foreign markets concern firms trading in goods and services alike, but are of particular importance to many service industries, owing to the nature of their business. As a first step in liberalising services trade, therefore, it is important that governments extend national treatment for establishment and market access to all firms wishing to establish an operation within their national boundaries. This would best be achieved by means of an agreement including provisions that

1. Where the applicant firm meets the local legal requirements for the establishment of a company in the host country (reason 'l" allowance being made for the different legal forms under which enterprises may exist), such establishment should be freely granted.
2. The legal requirements for establishment apply equally to domestic and foreign applicants.
3. Information on such legal requirements be freely available.
4. The application procedures be implemented in a non-prejudicial manner.
5. Access to the domestic market for any firm should not be impeded by the imposition of discriminatory restrictions on the size of the firm or the level of sales.

The ICC therefore urges all governments to take up this issue and enter into negotiations to develop an international agreement based upon the principles outlined above, to permit the unimpeded establishment and participation of international service industries wishing to operate internationally.

A GLOBAL FRAMEWORK OF IMPEDIMENTS TO TRADE IN SERVICES

The following classification of barriers to services trade is based on the premise that, notwithstanding the differences in activity among the different service industries covered, the underlying principles of liberal trade and fair competition are common to all. It attempts to draw together data on obstacles to trade in services experienced in specific industries and to classify it in terms of these underlying economic principles. This classification then offers a manageable framework of non-tariff barriers to trade which can be used as a model for a negotiated liberalisation to international trade in services.

1. Rights of Establishment and Access to Markets

Establishment in third countries is, in general, more important for many service industries who wish to conduct international transactions than it is for manufacturing industries, as in many cases the provision of the service relies on the existence of a local office or outlet.

However, an additional factor in the successful establishment of a local office is the ability of a firm to gain realistic access to the market in which it wishes to operate. For transport services, for instance, the ability of a vessel to put down and pick up passengers or freight in a particular area is of greater importance when considering market access than is the establishment of a local agency. Any discussion of establishment questions, therefore, should cover equally both establishment legislation - "the bricks and mortar" - and freedom of access to markets. Restrictions on establishment and market access for service industries appear to be some of the most important deterrents to international trade in services for all industries.

Impediments in this category arise from the complete or partial denial of access to a market as a result of:

1) prohibition upon the establishment of local operations or upon the importation of a service by a foreign firm.
2) the operation of a system of licences, required by foreign firms before establishment or import of the services is permitted, which act as a quota upon the number or type of foreign firms granted access.

3) legislation which obliges foreign firms to operate under significantly different conditions to domestic firms, thus increasing the cost or decreasing the attractiveness of the service offered in a discriminatory manner.

Examples

Under section 1 above

a) legal prohibition of the establishment of firms.

b) the prohibition upon foreign investment in an existing domestic industry.

c) cabotage, i.e. the reservation of a country's domestic operations to its national flag carriers.

d) limitations on the freedom to pick up or put down passengers/freight in the country concerned, or to proceed through national territory.

e) the prohibition or limitation upon the activities of brokers of services to conduct their business on international markets.

Under section 2 above

a) procedural impediments in the granting of the licence.

b) the requirement that the foreign firm be able to offer a service materially different from those offered by domestic firms before the licence is granted.

c) licences may only cover limited activities, and those activities not included in the licence may not be practised.

d) non-recognition of professional licences to practice awarded in other countries.

Under section 3 above

a) the imposition of cargo-sharing or cargo-allocating agreements, either in national legislation or through the forced use of certain contract clauses.

b) limitations in foreign equity holdings or on the amount of capital required for initial investment.

c) discriminatory restrictions upon the level of sales of a foreign firm.

d) discriminatory restrictions upon the level of advertising of a foreign firm.

2. Government Economic Policy and Regulation

Although legislation is necessary to regulate certain aspects of commerce, and to further government macro-economic policies, such legislation often results in practice in barriers to international trade, as its application to domestic and to foreign firms is, in many cases, inconsistent. The legislative measures included in this category are diverse, but when brought together, they represent one of the most common and most effective impediments to international trade in services, in both the industrialised and the developing nations.

Impediments in this category arise where local government economic policy measures discriminate between the operations of domestic and foreign firms, thus providing significantly different operating conditions for the two competing groups.

1) national treatment is not extended to foreign firms.

2) government legislation effectively impedes the export of the service.

3) the application in practice of legislation in the host country is undertaken in an effectively discriminatory manner.

Examples

Under 1 above

a) Foreign firms often face different tax regimes to those faced by domestic firms.

   i) Corporation tax is levied at a higher level on foreign firms than on domestic ones.

   ii) The purchase tax on the service can be set off against the buyer's own corporation tax when domestic services are purchased, but this practice is not extended to the services of foreign firms.

iii) In countries which have no bilateral agreements, or which do not recognise the OECD Convention on Income and Capital, the problem of double taxation arises.

b) Credit facilities extended by governments are often unavailable to foreign suppliers, and private credit sources are often limited in their provision.

c) Exchange control regulations which hamper the repatriation of profits or the movement of remittances, and influence the location of the service transaction.

d) Discriminatory regulations between foreign and domestic firms with regard to contracts, documents required, etc.

Under 2 above

a) taxation practices applying to citizens working abroad act as a disincentive to trade and personnel movement.

b) the extraterritorial application of domestic laws brings the service industry into conflict with the laws of foreign governments when conducting international operations.

Under 3 above

a) The lack of easily obtainable information on local government regulations and policy measures.

b) Problems in gaining access to officials, courts, etc., to file disputes or resolve problems, or the existence of biased procedures once access has been obtained.

c) The use of technical regulations, standards, certification systems on safety, health and manning levels, etc. to discriminate against foreign firms.

3. Direct Government Intervention

In addition to their legislatory role in providing a stable legal framework for commerce and in furthering macro-economic policy, governments in many cases directly intervene in the functioning of the market mechanism to influence market-based decisions, and to further regional, social and industrial policies.

Impediments in this category arise where the competitive position of firms operating in a market is distorted by direct government micro-economic intervention. Such intervention may be by the government itself, by government agencies, or government-controlled corporations.

Such impediments can be split into two categories:

1) government intervention which attempts to favour or improve the competitive position of certain individual firms.

2) intervention which specifically hampers the competitive conditions of foreign firms.

Examples

Under 1 above	a) Government grant and loan facilities offered to industry to further regional and social policies which are not available to foreign firms.
	b) Requirements that ancilliary activities be provided by local firms and sales organisations.
	c) The selling below cost of competitive services by local government-owned firms.
Under 2 above	a) Restrictions on contractual freedom and the setting of prices and charges.
	b) Restrictions or delays in the importation of or access to equipment and utilities necessary for the operation of the service activity.

c) Requirement that factors of production (land and equipment) be leased rather than pursued by foreign firms.

d) Restrictions on the employment of expatriate staff required for the operation of a local office.

4. Government Procurement

A further source of government-imposed barriers to trade in services arises in the field of government procurement, in which the government participates directly in the market as a purchaser of services or in the tendering of government contracts.

Impediments in this category arise where governments discriminate between domestic and foreign firms when undertaking their own activity.

1) government procurement procedures limit government purchases or the tendering of government contracts to local firms.

2) there is an absence of explicit procedures and regulations concerning government procurement, or existing regulations concerning procurement are not applied, allowing discretion and discrimination in procurement issues.

Examples

Under 1 above

a) Specific regulations limit purchases by government departments, local governments and state-owned corporations to certain designated firms.

b) Government tenders are only offered to specific firms.

c) Contract clauses effectively control the allocation of the services (the use of FOB purchase and CIF sale clauses to regulate shipping).

Under 2 above

a) The lack of specific regulations allows an element of preference to be introduced in awarding government contracts.

b) Tenders are not openly announced, which restricts the ability of all firms to compete.

c) The results of tendering are not published to verify the final award of the contract.

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COMMISSION ON INTERNATIONAL TRADE POLICY AND TRADE-RELATED MATTERS

Meeting on 6 April 1981

INTERNATIONAL TRADE POLICY: REVIEW, PROSPECTS AND ICC RECOMMENDATIONS

Statement adopted by the Commission. At its meeting on 1 April, the Executive Board of the ICC granted the Secretary General advance authorisation for the immediate release of this document.

1. The outlook for international trade expansion is clouded. There is still persistent and spreading world economic recession. Successive oil price increases have had serious effects on the economies of oil-importing countries, on the levels of world prices generally, and on the balance of payments of almost every country in the world. The fluctuating international monetary system is under great strain. Inflation and substantial unemployment combine to produce conditions of great trading difficulties, an atmosphere readily conducive to the growth of protectionist pressures and a great increase in government intervention in industry and trade. The development of these pressures has been accelerated and intensified both by the emergence into the world trade scene of substantial exports from countries which had not previously been significant participants in world trade, and by intensified competition among traditional exporters.

2. The Tokyo Round of multilateral trade negotiations was concluded nearly two years ago, and it is now timely for business organisations and firms, as well as governments, all over the world, to take stock. Is world trade to be conducted in the atmosphere of a spiralling downward trend, made increasingly worse by spreading protectionism? Or can a new impetus be given to world trade by strengthened re-commitment to the principles and the practice of liberal international trading policies,

by welcoming and accommodating to inevitable changes in the patterns of trade, and by a readiness to look forward to new developments rather than to try and preserve and protect existing, and in some cases obsolete, structures?

3. This paper sets out the results of the ICC's review of what has happened over this period. In the light of this review the ICC now (i) urges business interests everywhere to recognise the dangers that lie in putting pressure on governments to increase measures of protection, whether direct or indirect, for domestic industries and (ii) urges all governments to resist pressures from whatever source for action which weakens the effective working of the GATT and the international trading system. The ICC particularly stresses the inescapable and growing interdependence of national economies and the significant effects of domestic policies on international trade; the need to get rid of rigidities, whether imposed by government regulations or by insufficiently flexible attitudes in industry; the interests of smaller countries and especially of developing countries, in adequate access to the markets of the larger industrialised countries; the desirability of ensuring that the increasing use of bilateral arrangements does not damage the international trade framework; the need for the traditional exporting countries to recognise the growth potential for them and for the world as a whole of increased prosperity in the new countries; and the value for the developing countries themselves of increasing participation by them in liberal trading practices.

4. The Tokyo Round occupied negotiatiors from some 80 countries from 1973 to 1979. It resulted in a substantial package of agreements on tariff reduction and on many other aspects of international trade. Most of these agreements came into formal effect on 1 January 1980. In some cases, the practical implementation of the agreements will be spread over a number of years, as, for example, in relation to the agreed reduction of tariffs. In other cases, as with most of those concerned with non-tariff barriers, the agreements call for the establishment of procedures to deal with disputes between governments about the propriety, or the effects on trade, of actions allegedly taken in contravention of the agreement. The outcome of the negotiations was greeted as

heralding a new start for the international trading system, and for the GATT. It was, however, also recognised that while there must be considerable satisfaction that it had proved possible to achieve substantial agreements, it would only be possible to assess the conduct of governments in their implementation, and arrive at a fair judgement after a period of time. The ICC shared this view, especially in view of the disquieting factors in the world situation.

5. In the spring of 1980, the ICC expressed its considerable concern at a number of manifestations of protectionism, and made a special call on the Governments of OECD countries to renew, and if possible strengthen, their pledge to refrain from action which could harm the international trade system. Those Governments did in fact do this at the Ministerial Council meeting of OECD in June, 1980.

6. None the less, the period since then has been characterised by persistent fears of trade conflicts wmong the three biggest trading entities - the United States, the European Community and Japan. Between the United States and the European Community these have been most acute in relation to some specific industries. In the United States, there has been particular difficulty over steel exports from some Community countries. In Europe, greatly increased exports of United States textiles have been the chief source of concern. In both the United States and Europe, there has been difficulty about what has been described as "an intolerable imbalance" in trade with Japan, and this has been particularly acute in relation to automobiles.

7. In addition, there is continuing unease in relations between the older industrialised countries and the expanding newly-industrialising countries. On the one side, there is the expectation by the "new" exporters of adequate access to the markets of the industrialised countries; on the other, there is much feeling that some developing countries cling to practices of restriction in their own markets and distortion of competition through e.g. export subsidisation when their exporting industries should be well able to compete on equal terms. Meanwhile, the state-trading countries, with increasing emphasis on forms of trade (compensation and buy-back deals) which do not conform

to open-market principles, and with no commitment to those principles, are a continuing source of distortion, especially in a period of recession.

8. Alongside these causes of tension and distortion, there are substantial changes in the patterns of population in the world, shifts in the utilisation of technology, and the emergence of new and efficient centres of entrepreneurship and industrial development in a number of formerly underdeveloped and poor countries. These are forcing a pace of structural change much faster and more fundamental than had been common earlier periods. As far as imports themselves are concerned, the effects of these changes have so far been felt in a small number of industrial sectors, and their total impact on the industrialised country economies as a whole has been limited. In the industries directly affected, however, the effects have been substantial, and have certainly been sufficient to create further substantial pressures on governments in a number of countries both for some forms of protection and for measures of internal support. All these developments emphasise the need for thoroughgoing structural adaptation.

9. In face of these difficulties, it is probably fair to say that in general there has so far been a fair degree of robustness both by business and by most governments in resisting pressures. However, there are a number of areas which must continue to give grounds for concern.

10. The first is that trade in a number of major agricultural products remains, as it has long done, to a very considerable extent outside the framework of the GATT. The outcome of the Tokyo Round on agriculture was not very substantial. New discussions on agriculture have now been started in the GATT and this is to be welcomed. It cannot be taken for granted, however, that there will be rapid changes in existing arrangements.

11. Secondly, two sectors of trade in manufactured goods - shipbuilding and, though in a less extreme form, steel - are now also to a very considerable extent, outside the framework of the GATT. It may be that

this has to be accepted as part of the process of restructuring the pattern of world trade and of facilitating, over time, changes in that pattern without excessive costs in social disturbance and upheaval. But it should be recognised that the straits to which these industries have been brought is in large measure the consequence of earlier attempts by government to distort the normal operation of market forces. Moreover, the social costs in other directions - the misapplication of resources, the reduction in overall economic efficiency and in total welfare, and the burdens on other industries, on consumers, on taxpayers, and on the general price level and standard of living - are seldom sufficiently brought into account in the reckoning.

12. A third cause for concern is the continuing conflict in the world textile industries. International trade in textiles has for a long time been subject to a special regime. New negotiations about the special regime applied to these industries are in train. However, the problems are very complex, and there are no simple solutions to them in sight.

13. It is serious enough in itself that these important specific sectors of economic activity are no longer fully governed by the disciplines of the international trading system, and that in a number of important countries, they are, or may become, to a very large extent a charge on the total economy instead of a contributor to its prosperity. The even greater danger lies in the tendency for pressures for government intervention and subsidisation to spread to other industries which find themselves faced with competition from imports. There is, indeed, a growing tendency, in many countries, for both private and publicly-owned businesses to press for restrictions on imports, not only through the use of procedures provided in the GATT, but by measures of various kinds (including pressure for "voluntary" export restraint) outside the provisions of the GATT. In addition, alongside these tendencies in a number of industrialised countries, the practices of some developing countries in regard to subsidisation of production and exports, and protection of domestic industry can also create distortion and add to tensions in the world trading system.

14. In these circumstances, pressures from sections of industry, and in some cases the political and social inclinations of governments themselves, have contributed to a proliferation of governmental interventions in the organisation of industry, and often of its day-to-day conduct, under the guise of "industrial policy" or "structural adjustment policy". The ICC discussed these policies at considerable length in its paper "Government Intervention and Industrial Adjustment" issued in September 1979 and argued that there was a real danger of such policies becoming alternative forms of protectionism.

15. The Tokyo Round agreements, and what has since happened in the follow-up to them in Geneva, have not done much, if anything, so far, to mitigate these concerns. The chief activity in this regard in Geneva has been to establish the Committees of Signatories required by each of the separate Agreements, and for the Committees to formulate their procedural arrangements. This is clearly a necessary preliminary to any substantive operation under the agreements. It has apparently been carried through, and the machinery set in place, without undue difficulty or acrimony. The ICC commends the countries involved on this. However, the establishment of the machinery is not an end in itself. We hope that it will be used effectively and beneficially.

16. One other development in Geneva needs to be brought into the picture. This is the very substantial increase, during the past year, in the extent to which member governments of the GATT have asked for, and obtained, the use of panels of enquiry to examine complaints about grievances of various kinds against the conduct of other governments. It is understood that more such panels have been appointed in recent months than the total for many years past. This must be taken as some evidence, which must be regarded as encouraging, that countries which feel aggrieved are now readier to act through the GATT machinery. Although some of the complaints being considered arise out of the new Codes, all the panels so far have been set up under articles of the GATT itslef. It also seems to be the case that the majority of the complaints made relate to agricultural goods or processed foodstuffs.

It is too early yet to say whether this increased activity in the field of dispute consideration will show that the procedure can produce satisfactory results for all the parties concerned. A burst of activity of this kind which ended without results, or with negative results, would be worse than no activity at all. On the other hand, if the outcome in at least some cases were to be a reassertion of the effectiveness of the GATT rules, there would be very considerable value in renewed respect for the whole framework of the GATT system.

17. Meanwhile, even apart from the activation of those of the Tokyo Round codes already in force to a stage beyond that of mere procedure, there remain a number of items of unfinished business in the GATT, and many countries have yet to accede to the codes. The code on public procurement came into effect on 1 January 1981 without further negotiation, and we look forward with interest to its operation. The main area which was left completely unresolved in 1979 was that of the promulgation of a "safeguards" code, where it proved impossible to reconcile, in particular, the views of the industrialised and the developing countries. It seems that little progress on this has been made so far. However, the persistence of difficult conditions in world trade make it likely that the danger of an increase in import restrictions still exists. It is, therefore, important that the negotiations should be pursued. Other areas of importance, and in particular the question of trade in services, have still to be tackled.

18. In the light of all these considerations, the ICC feels it necessary to express again its continuing strong concern about the disturbed conditions of international trade, and the manifestations of increased pressures for protection to which these conditions have given rise. Any further increase in interventionist action by governments which might aggravate the present difficulties will delay still further the possibility of a return to a renewed expansion of world trade and restoration of general world expansion and prosperity.

The ICC therefore .

(i) Strongly reaffirms its view that the open market system, within the rules established by the GATT, reinforced by the codes agreed in the Tokyo Round, provides the best framework for the conduct of world trade;

(ii) regrets the departures from the principles of open market trading in some sectors of trade by the actions of some governments, in response to the pressures and problems of sectional interests, and the distortions which can be caused by state trading and other interventions in the market process;

(iii) urges governments to complete the unfinished business of the Tokyo Round, both by negotiating an adequate code on safeguards, and by effective action under the various codes agreed in 1979; and to begin consideration of further improvements in the international trade system, including especially the application of its principles to international trade in services;

(iv) calls on the governments of industrialised countries to recognise the needs of the industries of developing countries for adequate access to world markets, and the long-term value for world prosperity of those countries as markets;

(v) asks the governments of developing countries, especially of those whose industries now play an increasingly significant part in world trade, to recognise the value for them of the open market system and of their progressive adherence to the rules of the GATT, as an essential element in their own efficient development.

(vi) emphasises the importance to be attached to the settlement of trade disputes through GATT mechanisms, and in accordance with international rules, rather than by actions not consistent with those rules.

(vii) calls on the business community in every country fully to accept and support the principles of an open trading system by opposing requests to government for protection which are not consistent with the principles of the GATT and on all governments to follow open trade policies and to resist pressures from whatever source for further measures of protectionism, restriction, or subsidisation which might weaken the efficient working of the GATT and the international trading system.

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COMMISSION ON INTERNATIONAL TRADE POLICY AND TRADE-RELATED MATTERS

STATEMENT CONDEMNING COMMERCIAL COUNTERFEITING AND ENCOURAGING STRONGER STRONGER GOVERNMENT COUNTERMEASURES

Adopted by the 139th session of the Council of the ICC, 17 June 1981

1. The International Chamber of Commerce, representing a broad range of business interests, many of which market products internationally which bear registered trademarks, is deeply concerned with the menace of spreading trade in counterfeit commercial merchandise. As its name implies, commercial counterfeiting is the practice of deliberately affixing a false trademark to a commercial product and selling it as genuine merchandise. Unlike ordinary trade mark infringements, counterfeit merchandise is often virtually indistinguishable from legitimate items. Counterfeiters seeking to falsely reproduce the trademark as exactly as possible generally copy the packaging and labelling of the goods as well, in order to increase the resemblance of the counterfeit merchandise to the real thing. This practice undermines the integrity of the international trading system by reason of the fact that it prejudices the interests of legitimate traders and deceives consumers and is harmful to their interests. Consequently, the ICC encourages government action at the national level and through international fora to bring commercial counterfeiting under more effective control without hindering the free flow of legitimate trade.

2. The ICC wishes to call attention to the fact that the phenomenon of commercial counterfeiting is widespread in a growing array of commercial and industrial markets as well as in consumer products and luxury merchandise. Counterfeiting is a recognized problem in such fashion items as cosmetics, perfumes, writing instruments and leather goods for example. But it is also

a growing problem in such industrial markets as automotive replacement parts, aircraft equipment, electronics products and agricultural pesticide in addition to the markets for consumer items such as watches, jeans, luggage, batteries, sunglasses, foodstuffs and beverages, where it may lead to health hazards. There is, therefore, a widespread phenomenon of importance and concern to a broad spectrum of the trading community and the consuming public which warrants increased government attention.

3. The ICC embraces efforts by governments under the aegis of the GATT to negotiate an international code to discourage international trade in counterfeit goods. In particular, the ICC endorses international co-operation to strengthen national measures to combat trade in counterfeit merchandise depriving the parties to the importation of such merchandise of the economic benefits of such transactions. The ICC recommends that national laws be amended insofar as possible to regulate counterfeit merchandise with provisions similar to contreband merchandise and, welcoming the draft GATT Anti-counterfeiting Code, it calls for a text which allows for the widest possible adoption and encourages the widest possible implementation of the Code.

4. The ICC also recognizes the contributions of the World Intellectual Property Organisation (WIPO) to national laws condemning commercial counterfeiting and it encourages governments to pursue vigorously additional initiatives in WIPO to strengthen further national and international rules against commercial counterfeiting.

5. The ICC also urges governments to strengthen national laws to combat commercial counterfeiting by, inter alia:

a) prosecuting counterfeiting offences under national criminal laws and stiffening criminal penalties against convicted parties to transactions involving counterfeit merchandise;

b) removing traditional secrecy of customs authorities when counterfeit merchandise is encountered in order to inform legitimate trademark owners of such occurrences so they may pursue their legal remedies under national law;

c) requiring that action be taken by appropriate civil authorities to deprive the parties to transactions involving counterfeit merchandise of the economic benefits of such transactions, in particular, to the greatest extent possible, by forbidding re-export of counterfeits to another market and by subjecting counterfeit goods to seizure and forfeiture and ultimate disposal outside the channels of commerce in order to minimize the harm to owners of the legitimate mark; and

d) imposing severe financial penalties upon the parties to such transactions in order to deter trade in counterfeit merchandise as a means of protecting consumers and defending the interests of legitimate traders; and

e) urging governments of both developing and developed countries to strengthen the measures available to them to discourage the production and export of counterfeit commercial merchandise.

6. The ICC also notes with concern the similar threats to consumer interests and the rights of legitimate traders which arise in the related field of piracy of copyrights and urges governments to pursue expansion of the foregoing programme to embrace other forms of counterfeiting which threaten the legitimacy of other forms of intellectual property.

7. Finally, the ICC urges the private sector to declare its full support for the foregoing governmental and multilateral initiatives and to engage in this effort not only those whose particular concerns involve defending intellectual property rights but also consumer groups, export organisations and persons concerned with trade policy.

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Preparations for the GATT Ministerial Meeting, November 23-26, 1982

The trade ministers of the member countries of the General Agreement on Tariffs and Trade (GATT) will meet in November 1982, to examine, at the political level, the functioning of the multilateral trading system, and to reinforce the common efforts of the member countries to support and improve the system for the benefit of all countries. The meeting marks the first time since 1973 that the member countries have met at the ministerial level to lend support for the maintenance of liberal trade policies and the improvement of the multilateral trading system.

This session will be held during a period of strong protectionist pressures resulting in large part from the prolonged recession that has gripped member countries. Decisions taken at the Ministerial will set the course of GATT activity during the 1980's, and can determine whether the organization will continue to be a major force for trade liberalization. Given the difficult global economic situation and the increasing pressures for protectionism, all GATT members have an important stake in seeking agreement on how to strengthen the system.

Preparations for the Ministerial meeting, including the development of a mutually agreed upon agenda and administrative aspects, are being carried out in a preparatory committee (Prepcom) established by the GATT Council. Thus far, the Prepcom has drawn up a list of all of the items which countries have proposed be discussed at the Ministerial meeting, and has agreed on a three-part agenda for the meeting.

-- Part I will be a common assessment of the problems facing the international trading system and a political commitment to further liberalization.

-- Part II will be decisions to be taken by the trade ministers to improve the operation of the trading system in the near- and medium-term.

-- Part III will be the establishment of the future work program of the GATT.

The GATT Secretariat circulated a preliminary draft of the Part I political statement prior to the June 10 meeting of the Prepcom. The Secretariat will redraft Part I on the basis of Prepcom comments and circulate the revised version in advance of the Prepcom meeting scheduled for June 22. Negotiations and discussion of items in Part II and Part III will be undertaken in various GATT bodies and in plurilateral informal consultations/negotiations. It is anticipated that a Prepcom meeting will be scheduled for July 28-29 to consider a Secretariat redraft of parts II and III and that, following the meeting, a bracketed document would be forwarded to capitals for consideration. A meeting would be scheduled for September 23 to finalize the agenda.

The United States objectives for the GATT Ministerial are to strengthen the GATT, resist protectionism, provide a forum for discussion of developing country trade issues, and launch a program for trade liberalization in the 1980's.

The United States is pleased with the progress that has been made by the Prepcom in developing the basic three-part structure of the Ministerial agenda. It is the United States position that this formulation will allow the trade ministers to address trade problems according to their status and the nature of work likely to result from the meeting.

With regard to Part I of the Ministerial agenda, the United States seeks a positive political commitment by all GATT member countries to expand trade and resist protectionism.

In Part II of the agenda, the United States believes it is particularly important that the trade ministers address questions concerning the implementation of the Tokyo Round agreements and, in particular, urge completion of the unfinished MTN negotiations on a safeguards code and the commercial counterfeiting code. The problems of trade in agriculture, the operation of the GATT dispute settlement mechanism, and the trade problems of developing countries also should be discussed under this heading.

The United States has proposed that the trade ministers take decisions under Part III of the agenda regarding the future work program of the GATT. It is the United States position that the GATT should begin to stress the emerging issues of the 1980's, such as trade in services, trade-related investment measures, and trade in high-technology goods.

STATEMENT OF HARALD MALMGREN, MALMGREN, INC., WASHINGTON, D.C.

Mr. **Malmgren**. Mr. Chairman, thank you for inviting me to testify. I share Ambassador Walker's views. We both come out of the same school. We have both been negotiators for the United States. I guess the only thing I can claim over him is I did it longer. I served under Presidents Kennedy, Johnson, Nixon, and Ford.

So if I can go back over the past briefly, we had a global negotiation in the sixties that was about tariffs. That was basically pretty easy. It took us 5 years, nonetheless. That shows how hard a trade negotiation is. And then, in the 1970's, we had something called the multilateral trade negotiations, which generated all of these codes on nontariff barriers. Actually that negotiation really began in 1967 when I myself headed the U.S. delegation in setting up the work program for the GATT in Geneva. That negotiation did not end until 1979. That took 12 years, and when we got into serious issues.

The trade issues that the United States is now approaching are far more complicated. The reason is that we are asking countries to constrain their own national sovereignty and to give up their authority to devise their own national economic programs. This could include economic decisions which are within this committee's responsibilities.

In upcoming trade talks we are going to get into very sensitive and difficult issues when we say "You cannot have this industrial policy, or you cannot have that wheat acreage policy, or you cannot have some other freedom of action. Everybody is going to be dealing with issues that have never been touched on trade before. The negotiation of new rules is not going to happen very fast.

Now the upcoming Ministerial, in my judgment, should not be viewed as an overly ambitious undertaking. It is the beginning of the beginning of understanding what it is that is wrong with the trading world, taking into account the results of past negotiations. It is going to be very difficult. It will take several years just to define what the issues are and then, when you have all of that in order, you then can begin to refine what to do about them.

If we made a mistake in the past as a country, it was that we studied the problems of the current period and then negotiated for 10 years about those problems and we found that the problems had changed, and that what we were doing was no longer relevant. What we should now be doing is looking forward to what the problems will be 10 years from now.

In my testimony I did touch on some issues that I call tomorrow's problems, and later on, when you get a chance, you might look through them. I think among them is the global slowdown, with problems of future unemployment that are far worse than presently perceived, particularly in Europe, that will be made much worse by technology in the next few years.

We are on the verge of a technology revolution and materials revolution which is going to make the outlook for steel, aluminum, magnesium and zinc, and all the nonferrous metals very poor—even copper. All of those industries are going to be overtaken by technology and we are going to have adjustment problems that will not be trade problems. So we have to think through what is it we are going to try to accomplish because trade is part of a much bigger picture of global industrial change.

As far as I can see myself, in my own work with large companies internationally, the big companies that are successful are not in Washington complaining. What they are doing is out there in the marketplace, solving their problems and making joint ventures across borders. GE is busy making arrangements with Hitachi, GM with Fujitsu and Isuzu. That is the wave of the future.

So I really do recommend that when you have people testify that you have included in those groups people who are not complaining and who actually do not want to come to Washington because they are busy successfully doing something on their own.

Now if I may make one suggestion, it was this Trade Subcommittee in 1970 that called upon the OECD to set up a wise man's group.

Senator Danforth, it was Senator Ribicoff who was in your chair at that time, as chairman of the Trade Subcommittee, who called for such an international group. The State Department resisted that vigorously, but finally conceded, and a group was set up internationally to define issues among the major industrial countries. That was probably the single most important step in getting the MTN going, and it was the initiative of the Senate Finance Committee.

The reason this initiative was taken was because there was no consensus on what the issues were. We had a terrible time defining what exactly industry wanted, what agriculture really wanted, and what the service people want. This is the same case today. If you ask questions constantly, what do people want to do, they say, well, I am not sure in precise detail, but I can give you some general ideas.

You cannot negotiate on that basis, because other countries will simply wait until the United States has clarified its position. So I urge that this committee make a major effort in pushing American industry and agriculture and the service people to define what it is that they are after.

Thank you.

[The prepared statement of Mr. Malmgren follows:]

TRADE STRATEGIES FOR THE 1980'S

Statement of Harald B. Malmgren
to the Subcommittee on Trade,
Committee on Finance
U.S. Senate
1 March 1982

I am honored to appear before this Committee to present my views on the action agenda for international trade in the 1980's.

In the 1960's, the U.S. Government sought across-the-board reductions in tariffs as the principal means of opening world markets. This objective was given special urgency by the creation of the European Common Market, which threatened to widen the scope of tariff discrimination in world trade.

In 1962, the Kennedy Round trade negotiations were launched, and they were subsequently completed in May 1967. This took five years even though the issues at that time, particularly with regard to tariffs, were rather simple.

As soon as the Kennedy Round was over, business, labor, and farm spokesmen argued that tariffs were really not that important, and that other types of protection, nontariff barriers (NTBs), and various types of subsidies to industry and agriculture, were replacing tariffs as the real impediments to world trade. Our government was quick to respond to these new worries. In the autumn of 1967, I led a U.S. team which prepared the outlines of a new GATT Work Program, which was then approved at a GATT Ministerial meeting in November of that year. That Work Program launched a massive global inventory of NTBs and subsidies. The GATT work gradually evolved from a focus on the thousands of complaints of various nations to a focus on general principles of conduct, or potential codes. In the 1970-71 period, a number of American business and farm organizations found consensus on the idea of preparing new codes of conduct as well as on the general content of such codes. The International Chamber of Commerce in Paris reached similar conclusions. A Presidential Commission followed up with similar thinking. As the result of an initiative by Senator Ribicoff of your Committee, an international group of "wise men" was appointed by governments under the framework of the OECD, and this group also generated proposals within the framework of the new consensus.

By 1973, when I was responsible for the drafting of an international declaration to be made by Ministers, to launch formally a new global round of trade negotiations, there was already in existence a consensus among the Western industrialized countries, both in the private sectors and the governments, about what to do. It was by then generally recognized that codes of conduct would have to be worked out for NTBs and subsidies. There was even basic agreement on the principles which should be embodied in such codes. In spite of this early consensus, the subsequent Multilateral Trade Negotiations did not conclude until the spring of 1979. The total effort on NTBs and trade subsidies took, in other words, twelve years.

Not long after the MTN negotiations were completed, new perceptions began to develop in American business, labor, and agricultural circles. While the MTN codes were praised, the private sector organizations began to complain that the "real" impediments and distortions in world trade derived from other sources. For example, industrial policies of other nations to assist key industries, such as steel, and to promote technological development and job creation, in vital sectors such as the automotive, aerospace, computer, and telecommunications industries, were said to be new and growing sources of unfair competition.

Thus there has been a gradual shift in our focus over twenty years, from tariffs to NTBs to the domestic industrial and agricultural intervention policies and regional aid policies of governments.

Now the U.S. Government is preparing for a Ministerial Meeting of the GATT in November, 1982, and the question is once again before us of what to put on the agenda for the next phase of international negotiation and multilateral cooperation in commercial affairs.

One lesson of the two previous rounds is that such negotiations take a long time. Therefore, we should not set our objectives in relation to past or even current problems, but rather in relation to what we believe the problems of the latter 1980's are likely to be.

While I feel that there is far less consensus in America today than in the early 1970's, nonetheless there appears to be some consensus on certain broad objectives:

(1) harmonization and liberalization of national policies affecting services

(2) bringing national industrial policies into conformity with the GATT and other international agreements and undertakings

(3) developing a framework for international cooperation in relation to national technology policies

(4) bringing national agricultural policies of other countries into line with the GATT framework

(5) making the GATT system, and its NTB codes, work more effectively

(6) devising a better, internationally agreed, framework under which national actions are taken to limit imports, in cases of serious injury.

(7) devising an improved framework for the treatment of investment.

This is an ambitious agenda. It covers very complex issues. Pursuing these objectives means reaching into the domestic economic policies that sovereign governments carry out. Concrete action in some of these areas would invariably limit the freedom of action of governments to pursue their own industrial and agricultural policies, and to enhance their national technological capabilities, and to strengthen their growing services sectors.

International discussions on these issues touch on fundamental differences in national economic philosophy, and on the role government is expected to play in each nation. Many governments will resist international intrusions into such vital areas. Some developing nations may perceive this approach as an effort to prevent them from attaining economic independence and from developing internationally competitive industries. Some industrialized countries will view this as a U.S. effort to coerce other governments to adopt American social philosophy, values, and concepts of the proper role of government.

In light of our experience of the last two decades, and the profound questions of national sovereignty involved, it would be unwise to be overambitious in the next few months. The Ministerial Meeting in November should best be perceived as a beginning of a very long and arduous process. Nothing can be achieved without some form of consensus internationally. I do not yet see such an international consensus in any of these problem areas. Rather, I sense in my own conversations abroad that there is great reluctance to yield sovereign rights and freedom of action in shaping the direction of industrial and agricultural change, and in improving national technological capabilities. There is also considerable suspicion of American motivations and objectives in the services sectors.

We also do not have a consensus here in the United States.

There are many cries of unfairness, and many voices raised in support of new negotiations, but very few recommendations on what should be done. For example, the question of services is on everyone's mind -- but there is no clear conception in our services enterprises about the details of what ought to be accomplished.

The U.S. could take a different approach, pursuing specific complaints against specific countries, and shift its trade policy focus to bilateral relations. There are arguments floating around Washington that the multilateral approach has lost its usefulness to the U.S. Let us use our market power and squeeze our partnrs one by one. The problem such a strategy poses is that it risks a collapse of the present system of rules, and of rights and obligations, without substituting any new international disciplines. Moreover, the U.S. no longer has the leverage it once had when it was the uncontested economic and trade leader among the Western free market economies. Now the European Common Market is the largest trading entity. Now, the technological capabilities of Japan already constitute a challenge to some of our most fundamental industries, especially those on which we hope to pin our future development. We are far from helpless, but we do not have the kind of dominant power and influence that we had in the 1940's and early 1950's.

We still have worldwide trade and investment interests.

Some of our major trading partners do not see the world the same way. They have predominantly regional interests. Politicans in many countries would welcome a U.S. shift to bilateralism, because it would open the door to discrimination in favor of their friends -- and against the U.S.

Tomorrow's Problems

Addressing these problem areas would pose significant challenges at any time. However, right now, at the beginning of the 1980's, the economic and technological outlook makes such objectives seem formidable.

First, we face continuation of the global slowdown of economic growth and capital formation that began in the late 1960's. Since that time there have been many global shocks -- in energy prices, emergence of new competitors in Eastern Europe and LDCs, volatile exchange rate movements, changes in national capabilities in high technology, etc. At a time when we should have been growing faster, and investing faster to rearrange our economy and adapt it to the new realities, we instead slowed down. Our capital stock and our industries were not modernized fast enough, and obsolescence spread rapidly -- just when global competition was intensifying. Not surprisingly, we now find imports taking a growing share of some of our key domestic markets, and we find that our share of world exports of industrial products is declining.

But our nation is not alone in this failure to adjust. Much of Western Europe may even be worse off. It is my expectation that unemployment in Western Europe will continue to rise for another year or two, to levels not seen since the Great Depression, and then stay high in some countries for the remainder of this decade. This by itself will pose very painful choices for Europe, because unemployment will drain budgets and force the cutting of many other economic programs.

There is another shock coming which I believe will pose even more fundamental questions about the role of labor in our economy, and that of Europe. We are on the verge of an Information Revolution, which will have far-reaching effects on our job structure, our competitiveness, and even our social framework. The accelerating development of the computer-telecommunications interface, and its interaction with "factory of the future," "office of the future," and the growing services sector, will in the 1980's radically alter the structure and pattern of economic activity in our nation, and indeed in all of the industrialized nations.

The emerging role of computers, industrial robots, numerical controlled machine tools, and automated transfer equipment will change the nature of how factories function.

They will require far less labor, for one thing. The demand for automotive workers, for example, will fall dramatically in this decade -- regardless of imports. The interconnection of computers, telecommunications, and the industrial workplace will allow completely new ways of managing and manufacturing (for example, engineers are already enabled to instruct the actions of robots or machine tools through computers, bypassing the traditional functions of draftsmen). Although the demand for industrial robots will grow dramatically, their manufacture will not necessarily generate many new jobs. Some of the new Japanese-designed plants for producing robots are designed to use robots to produce robots.

Similarly, the office workplace will be significantly rearranged by the linkage of computers and telecommunications to office work sites. We can already see the tremendous change being brought about by word processers and computerized filing, accounting, asset management, and other administrative activities. Moreover, the work station site will not have to be in the same place as the responsible office -- people can work at home, or make decisions in one city which are put into effect in another city virtually simultaneously.

In the services, an area in which I have spent considerable time in strategic planning for U.S. and foreign businesses and banks, there is a growing recognition that a wide variety of services can be integrated through the computer-telecommunications interface. Users of services increasingly desire one-stop shopping. Providers of services find that technology is making this possible, without moving people around the world.

Japanese Government and industry have for a number of years recognized that this information revolution was coming, and they have been preparing for it since their initial government-industry efforts to promote computer technology in the 1960's. This process of change is described in various Japanese government documents as the drive for a knowledge-intensive society. In France, there have been two major reports prepared for the President of France in the last three years on the "informatisation" of the economy, and the Mitterrand Government has given this process a central role in the restructuring of the French economy in the next few years.

A high priority has been accorded to the computer-telecommunication sector by a number of governments, in the expectation that progress in this field will (1) greatly increase national productivity, and (2) generate new exports to an exploding world market. Moving to higher technology exports is widely recognized as a necessary response to the emergence of some of the Newly Industrializing Countries (NICs) in more traditional industries (textiles, steel, shipbuilding, etc.).

The information revolution brings with it good news and bad news. The good news is that it can help lift productivity. The bad news is that it will bring about a major decline in industrial jobs. There will be an increase in job opportunities in services and technology development, but our workforce is not easily adaptable to transformation of jobs on the scale required in the 1980's. Moreover, we are not training enough engineers and technicians to meet the coming demand -- Japan already graduates each year twice as many engineers as the U.S., on the basis of a population half the size.

This means that we should soon consider what policy is necessary regarding the development of human resources. How our economic policies deal with people and jobs will greatly affect the performance of our economy, and of our competitiveness.

There is yet another set of shocks which technology will bring us in the 1980's, with enormous implications for our basic industries. The "new materials," including carbon fiber technology, ceramics, fiber optics, and new plastics are likely to alter dramatically the outlook for steel, aluminum, copper, zinc, magnesium, and all the other metals. The auto of the 1990's will probably have no metal in it at all.

The challenge posed for the U.S. is, in my opinion, so serious that if we do not find a way to meet it our technology and industrial competitiveness will be seriously undermined. Moreover, the rate at which change comes in each sector is faster and faster. The costs of computerization are falling rapidly, as the speed and scale of memories grows at a remarkable pace. The growing use of computers is accelerating the pace of R&D in every direction -- genetic engineering, communications, new materials, etc.

Some American companies feel mortally threatened by these new realities, and especially by Japan. On the other hand, in some high technology areas where the U.S. and Japan run neck and neck in the race for leadership, such as industrial robots and other "factory of the future" equipment, key U.S. companies have formed joint ventures with Japanese firms (GE-Hitachi; Unimation-Kawasaki) rather than compete head on. In my opinion we shall see much more cross-border cooperation, even in the development of new technologies, in the next few years. Indeed, if we do not panic, we may find that new forms of international industrial cooperation in high technology provide answers to the present fears.

In this connection, I have just completed, in cooperation with Dr. Jack Baranson, a major study of technology policies of other nations and their implications for the U.S. This study was commissioned by the U.S. Department of Labor and the Office of the U.S. Trade Representative. It is entitled Technology and

Trade Policy: Issues and An Agenda for Action.

I reached certain broad conclusions in that study which I should like to call to your attention.

First, it is evident that many governments, including governments of some developing countries, consider technological development to be vital to domestic and international competitiveness.

Second, governments are actively intervening in high technology to coordinate and integrate their national efforts. This is carried out in a variety of ways. In Japan, MITI, the industrial enterprises, research laboratories, and universities meet frequently to exchange information and develop a collective perspective on promising avenues of research and their applications. Subsidies and soft loans are provided to assist development of commercial applications in targetted technologies. However, the level of official support of R&D in Japan is, as a percent of GDP, far lower than any other industrialized country. It is not the amount of the subsidies but the coordination of effort and collective decision-making that seems to have the primary effect. The view is that this integration avoids redundancy and duplication; it provides for division of labor; it assures exchange of information on what does not work as well as what does; it facilitates parallel development of technologies that reinforce one another. From a competition policy point of view, this coordination of national effort is viewed as procompetitive, by lifting the level of national capability. In the U.S., we tend to discourage cooperation and coordinated effort, viewing it as anticompetitive.

Third, governments have in many cases shielded their home markets from import competition in the high technology area, while targetting external markets, especially the U.S., for development of exports.

Fourth, a wide variety of other measures or instruments are used to enhance national capabilities. These often are embodied in trade policies, procurement policies, and "performance requirements" established for foreign firms which make direct investments and manufacture locally. Such requirements often involve commitments as to the share of exports in total shipments, the local job content, the local value added, the use of local suppliers, the training of local workers and supplier firms, the transfer of technology, etc. If the requirements are met, the foreign firm is allowed to invest and operate locally, and benefit from tax incentives, subsidies, and other aids provided such new plants.

The issue of what to do about such performance requirements thus covers not only trade, job, and investment flows, but also technology flows, in developing countries and also in some developed countries.

In this connection, I would like to call to your attention the substantial role of "offset" arrangements in the international defense procurement sector in bringing about comparable results. The effects of "offsets" are often spread widely in the economies of Western Europe, well beyond the defense sector. My report raises the question of whether such arrangements should continue to be negotiated by the U.S. Defense Department on behalf of U.S. industry, with only limited regard to U.S. commercial objectives, or whether this area should not be brought under the wider trade and economic policy framework of the U.S. Government.

What should be done?

International Action in the 1980's -- and At Home

It is important to develop an international action agenda for the 1980's.

However, in my opinion we need to have a new look at our own policies and institutional framework first. Our R&D, on which our future competitiveness depends, is declining as a share of GNP. Long lead time, high risk research in complex areas of technology cannot be financed on a substantial scale except by the government, or on the basis of the retained earnings and internally generated cash flow of large corporations. Even in the latter case, most corporations are reluctant to commit funds and manpower to long lead time, high risk projects.

There are many reasons for this market failure. Our management culture, our assessment of performance of managers, and our SEC regulatory policies all force a focus on short-term financial results. Our capital markets do not provide medium and long-term funds for major R&D efforts. Our industry and government deal with each other on an adversary basis. We discourage cooperation among firms, exchange of technology among them, and coordinated R&D efforts. In other countries, the R&D area is looked at separate from product and price competition. Enhancement of national R&D is felt to raise the level of a nation's competitiveness. Therefore, in other nations some degree of government-industry cooperation and sharing of technology and other information among firms is felt to improve the overall capability of the nation. If additional funding is needed in some high technology areas the other governments will often intervene, if this will help bring the R&D to the stage of successful commercial application. We would normally view the use of government funds to support commercial applications as wrong.

In other words, there is an emerging pattern in other countries, particularly in those of our key competitors, of close government-industry cooperation and coordination, and active policy measures, to promote technological capabilities. This creates a basic difference between the way we and they handle the development of technology.

That is a growing challenge.

To negotiate internationally about these industrial and technological policy issues will be difficult. Similarly, to negotiate a better, more liberal framework of international rules for services will be difficult. An intensive effort to develop some kind of consensus is needed, to provide the vital foundation on which any international negotiation must be built. That consensus must include a consensus at home about our objectives, and the means for achieving them. But we also need some degree of consensus internationally, about the nature of possible new trade rules or codes of conduct.

A very high degree of consensus existed about the treatment of NTBs before the MTN formally began in 1973. A comparable consensus about the treatment of industrial policies, technology policies, performance requirements, and services does not exist now -- not internationally, not domestically -- not even within the U.S. Government itself.

The first priority is to build such consensus, at home and abroad, and I hope hearings such as these will help us, as a nation, to develop one.

Senator DANFORTH. Thank you both very much.

Senator Matsunaga.

Senator MATSUNAGA. Thank you, Mr. Chairman. I thank you both and I think the industry ought to feel fortunate to have the services of you two, who have been on the inside. It may look very different from the outside, but at least you know how it did look from the inside, and I think you can be of real great service to the Nation by representing the views from the inside to the so-called outsiders now.

Mr. Walker, I commend you on your testimony. I think you are one of the few who have seen the world of trade picture as it refers to the United States from an overall view that is very seldom expressed. That is, in the family sometimes you need to grow vegetables and sell vegetables in order to get beef, and you may have throughout the world some nations which may do better in producing one item and insist on producing that particular item and have a deficit in other items insofar as trade goes.

But then it is the overall balance or deficit which is the bottom line, and I think we need to educate, I think, Members of the Congress more to that than those in private industry.

I commend you for that.

Mr. WALKER. Thank you, sir. The U.S. Council certainly shares the view that it is important to increase our access to foreign markets and to overturn obstacles and barriers to trade wherever possible.

I think what my testimony was seeking to do is to add a measure of perspective that yes, we have problems in market access overseas, no, that is nothing new, and in fact we are doing better at it than we used to do. Exports today represent a much larger share of GNP than was true only a few years ago, and the trend is increasing.

Senator MATSUNAGA. You caution against retaliation, but would you include failure on the part of a party to a contract to carry out its obligations within the term retaliation, if we should insist upon compliance?

Mr. WALKER. Where there is failure to comply with the GATT obligations there is GATT machinery that is set up to deal with that, to allow us to declare a nullification and impairment, if you will, of a commitment that was given.

What concerns me is that we act unilaterally outside the GATT to rectify what we perceive to be a wrong decision by the GATT, and once that happens then we open ourselves up to the same kind of retaliation by others. I think that is very unwise and a grave risk to American exporters, as I say, particularly in the agricultural sector.

Senator MATSUNAGA. Thank you. Thank you very much.

Senator DANFORTH. Gentlemen, thank you.

Mr. Malmgren, I have one question I would like to ask you about high technology, with specific reference to the chemical industry. The question is whether or not GATT provides adequate remedies for dealing with Government interference in high technology sectors.

Now, the specific area that I am referring to is one that I watch closely because it involves a constituent, namely Monsanto. It is a well-known chemical company and it faces a variety of problems growing out of Government involvement with its competitors abroad.

In Italy, the Government owns chemical companies. They have been operating in the red for years. Mexico prevents U.S. firms from investing in production of many basic chemicals. Brazil offers substantial subsidies to exports of chemicals. Hungary and Taiwan have been pirating patents. There are a host of international problems relating to this specific industry, and it is the sort of situation where you deal with one of them and another one pops up.

I think the basic question that is raised by this is, is GATT adequate to this job?

Mr. **Malmgren**. It is a tough question, Mr. Chairman, but boiled down, I can make available to the committee a report that I prepared for the U.S. Government only maybe 2 months ago on these questions of high technology and the Government policies for the key countries—how it affects the outlook for technology. In that report the GATT is discussed at some length. I believe the Commerce, Labor, and State Departments are using that report extensively in their current work.

It is true that in the petrochemical sector, for example, we have a tremendous change going on arising from some of the points you have made—Government ownership, et cetera—but also cheap feedstock in certain parts of the world. Alberta—if you looked at a map of Alberta for petrochemical projects you would be amazed at how many dots there were representing projects. You could hardly see the map.

In Mexico and the Middle East there will be new petrochemical plants. The Russians are planning to help fix their export performance picture by building more petrochemical facilities. We are going to have a glut of petrochemicals in the latter 1980's, and the only way you will sell is to dump. So Monsanto has problems now and they will get worse.

Another thing that is happening is that there are new materials that are coming on stream—ceramics, carbon fiber technology, which will make many of the petrochemicals not interesting anymore. And so it is a very uncertain picture. Part of this is due to governments, but part of it is just that technology is overrunning the circumstances of the companies.

Senator **Danforth**. Well, as far as technology and changes in technology, that is something that the private sector is going to have to resolve, but what I am curious about is, is this area—is high technology in general an area where there are so many potential ways for other countries to practice unfair methods of trade that GATT has just been overtaken?

Mr. **Malmgren**. GATT can control certain types of policies. For example, if Mexico requires that a foreign company wishing to locate there establishes an R. & D. facility, and undertakes a certain amount of local production, with a certain amount of jobs in Mexico in order to be there to sell, and if they get their incentives in exchange for that, this is what we call a performance requirement. GATT can be used to attack that kind of problem.

We often get quite excited about Japanese technology. Japan's Government spends less on R. & D. as a percentage of GNP than any other major country, including the United States. There is a myth that they spend more, but actually they spend less than we do. How do they do it?

Well, because the Government and industry and all the companies within industry coordinate with each other, they exchange information, and they do not consider that anticompetitive. Now how do you get at that with the GATT? You can get at that process with the antitrust law, but the only effective way to do it is to change our law to allow more exchange of information among our own companies, or allow companies to exchange information with each other across borders.

We might as well look at it this way. It is what we used to do. People, companies abroad used to buy from us. We might as well buy from Japan too. But that is not a GATT matter. There are GATT matters and non-GATT matters.

Mr. **WALKER**. Could I add a footnote to that, Mr. Chairman? What we are really talking—what your question asks and answered to was whether or not industrial policies can be alined and is the GATT a vehicle.

Senator **DANFORTH**. It is not solely industrial policies. There is the pirating of patents.

Mr. **WALKER**. I understand. I am deeply involved in that.

Senator **DANFORTH**. There is the Government ownership of high technology businesses. There is the subsidy problem. It is——

Mr. **WALKER**. Well, we can define it even more broadly.

Senator **DANFORTH**. You have a very hot area, a very promising area, and you have governments doing everything that they can conceivably do—subsidies and whatnot—to promote that area. Is there just so much that free trade is next to impossible?

Mr. **WALKER**. Defined another way, what we are talking about is possibly alining the roles of governments in these fields, which is really what you are asking. I think the answer is probably no, but the GATT can get at some things.

Still, look at just two examples of charges that are made by the Europeans against American policy—and goodness knows, we don't have industrial policy; perish the thought—but we do maintain price controls on natural gas, which is a feedstock for petrochemicals and is alleged to be an outrageous subsidy by the Europeans.

Second, there are charges repeatedly made that American expenditures in the defense field represent a subsidy for R. & D., charges that we have repeatedly rejected, but there is doubtless a grain of truth there. Would we be willing to aline those policies in the context of the GATT? I think the answer is probably no.

Mr. **MALMGREN**. I think there is an area here to be explored among governments, Mr. Chairman, and it is something that has not been thought through very well.

Recently the Japanese Government, when Minister Abe was here, did propose some exploration of something which the Japanese call industrial cooperation, which means technological exchange. And that whole area is being discussed in extenso by the French Government with the Japanese, by the EEC Commission with the Japanese, and by nobody here at all, because nobody responded to the Japanese.

I know that there are a number of U.S. companies that feel that is the avenue to go—more cross-border cooperation in the high technology fields like fiberoptics, new materials, new engines. In that kind of area there is a lot going on with a few U.S. companies, but the U.S. Government has been, let us say, not up to speed on this and, therefore, it is something you can get into with profit, I believe.

Senator **Matsunaga**. If the Senator would yield, should that be at a government level or at the private sector level?

Mr. **Malmgren**. Well, there are two levels. There are activities which the two governments get into, such as defense R. & D. on our side or NASA research, et cetera, and where MITI gets involved in things and they can explore what they are doing and how to go about it.

But then there is another level. How do you carry it out in the environment in which the private companies feel comfortable and safe in making cross-border joint ventures and then they go off and do their own thing? So there is an area of policy here as well as an area of commercial opportunity.

Senator **Matsunaga**. The lack of response you spoke of, was that at the Government level or the private sector?

Mr. **Malmgren**. The Government level. Business is busy.

Senator **Danforth**. Gentlemen, thank you very much.

[Whereupon, at 12:15 o'clock p.m., the subcommittee adjourned.]

[By direction of the chairman the following communications were made a part of the hearing record:]

TESTIMONY OF

AMERICAN INTERNATIONAL AUTOMOBILE DEALERS ASSOCIATION

for the

United States Senate
Committee on Finance
Subcommittee on Trade

March 1, 1982

The American International Automobile Dealers Association (AIADA) represents the interests of 7,000 American dealers who sell imported automobiles, and the 165,000 U.S. employees of these dealers. For most of the past decade, the automobile industry has occupied a central place in the rapid evolution of international economic relations. Naturally, the AIADA has followed this evolution closely, and we would like to share with the Committee some conclusions that have grown out of our experience. Certainly these conclusions are consistent with the interests of our membership, but we believe that they are also consistent with the broader international interest of the United States in promoting greater productivity at home and fair treatment of U.S. industries abroad.

Mr. Chairman, U.S. international trade policy again is lagging behind events. In the 1950s and 60s, taking our dominant competitive position for granted, we built into our tax and regulatory system disincentives to export and to invest in production facilities at home while we turned a blind eye upon many foreign actions that restricted our exports and distorted our investment decisions. Now, after the record trade deficits of the 1970s, the promotion of U.S. merchandise exports at last appears to have become an important national priority. But it would be tragic if, in our rush to promote exports, we ignored the other half of U.S. international competitiveness: our policy toward investments in the United States and abroad. Just as non-tariff barriers were the "new protectionism"of the 1960s, begger-thy-neighbor investment incentives and performance requirements are the new protectionism of the 1980s. Just as "export disincentives" were the self-imposed affliction of the 1970s, disincentives for investment in the United States are the self-inflicted competitive penalty still to be faced in the 1980s.

The problem of the U.S. Government is both substantive and procedural. We do not have a clear policy with respect to foreign and domestic measures that distort investment decisions. We do not have a clear designation of authority or an adequate organizational structure for devising such a policy within the Executive branch - and indeed we do not have subcommittees of the Congress that devote their full attention to investment policy, as this Committee devotes its attention to trade policy. No body of rules expresses an international corsensus about the way governments are to treat investment, and no truly international organization provides a forum for negotiating the reduction of distorting investment practices.

Most fundamentally, there has not been an adequate appreciation here or abroad of the inextricable relationship between trade and investment. Begger-thy-neighbor investment incentives and performance requirements distort trade as surely as do direct import quotas and export subsidies. Our own investment disincentives hamper the ability of our industries to be competitive internationally in essentially the same way as do export disincentives.

No industry feels the competitive effects of distortive investment practices more than the automobile industry. Automobile manufacturers and their dealer networks, and the employees of these organizations, live by the increasing internationalization of automobile production. This is, in principle, an extremely healthy development. If government measures affecting investment were reasonably neutral around the world, then the entire U.S. automotive industry would prosper by the trend toward internationalization as a result of increased investments in production facilities at home and increased exports of automotive parts abroad.

But the essence of the problem, Mr. Chairman, is that investment measures are far from neutral. We are here today to talk about that problem and to propose several solutions, including:

- a thorough study by the Organisation for Economic Cooperation and Development (OECD) of the relationship between investment disincentives, incentives, and performance requirements on one hand, and international trade competitiveness on the other, with specific examples and proposals for action.
- negotiation of a set of principles and organization to be known as the General Agreement on Investment Practices, parallel to the General Agreement on Tariffs and Trade.
- creation within the Executive branch of a Department of International Trade and Investment to provide clear direction of the executive on international trade and investment matters.

To repeat, Mr. Chairman, our proposals have grown out of our experience in following international developments in the automobile industry. How did the American automobile industry get into its present position? Thirty-five years ago, the U.S. industry was the only functioning car industry in the world. In 1964, we made 80 percent of all the automobiles produced in the world. At the start of the 1960's, we still produced half of the world's cars.

From 1965 until the present, however, domestic manufacturers have increased their production by only 15 percent. In the same period of time, Canadian production has more than doubled, French output has doubled, German production has increased by 35 percent, Italian manufacturers have grown 45 percent, and Japanese production has increased by a massive 400 percent.

Total world automobile production has increased by 73 percent in the fifteen years since 1965. Obviously, the United States has not kept pace with that growth. United States manufacturers, however, have. In fact, a very large portion of that growth has been accounted for by production increases on the part of the overseas affiliates of U.S. companies.

The picture of the United States as a mature market has obviously influenced the investment decision of American manufacturers. There have been other influences. There has been a virtual worldwide auction of new automotive plants, with nations competing with each other in piling incentive on incentive to acquire the jobs and production capacities such plants represent.

These incentives include direct cash grants, tax advantages, accelerated write-offs, and low-cost loans. The United States has not competed in this auction. Instead, our tax income, as well as direct and indirect foreign tax credits, provide a powerful disincentive for the subsidiaries of automotive manufacturers to return their growing overseas profits to this country for investment here. For many years, foreign profits have been reinvested abroad, with the consequence of even greater profits abroad, and, therefore, further reinvestment abroad.

Meanwhile, in the United States, several factors have combined to discourage domestic investment. The necessity of meeting Federal regulations and standards have consumed much of the funds otherwise available for investment. And the economies of scale created by manufacturing millions of cars built on the same concept and design used year after year made U.S. manufacturers reluctant to effect radical changes in their output by sacrificing profits in the short run.

These developments in the automobile industry paralleled larger developments in the U.S. competitive position. It is now well known that important changes occurred in the composition of the U.S. current account during the 1970's. In 1971, the United States recorded the first deficit in its merchandise trade balance since the close of the nineteenth century. Increasingly large deficits followed in 1972, 1974, and 1976. Since 1977, the United States has recorded annual merchandise trade deficits of between $25 and $34 billion. The deficit for 1981 will be worse than that of 1980, and by all indications the merchandise trade deficit for 1982 will be larger still.

At the same time that the United States has been compiling these growing deficits in merchandise trade, the nation has been recording increasing surpluses in the net income from U.S. foreign investments. During the 1950's and 60's, U.S. net income from foreign investment grew from roughly $1.5 billion to $6 billion annually. From 1970 to 1980, however, this surplus increased more than 5-fold from $6 billion to $33 billion. What has happened over the past twenty years is that the main reason for a balanced U.S. current account has shifted from large surpluses in merchandise trade to large surpluses in the earnings of foreign investment, especially direct foreign investment. For example, in 1980 the United States recorded a deficit of $25 billion for merchandise trade but a surplus of $33 billion from investment income and, after other transactions were taken into account, an overall surplus of $3.7 billion on the current account.

But U.S. foreign investment does far more than merely return large amounts of cash to U.S. companies. Efficiencies created by the "internationalization of production" enable U.S.-based manufacturing companies to compete with their counterparts in other nations. Foreign affiliates of U.S. manufacturing companies also import enormous quantities of U.S. components. According to the Commerce Department, in 1977 roughly 33 percent of all U.S. exports were traded between U.S. companies and the affiliates of U.S. companies abroad. For manufacturered exports, the proportion of total trade that is intra-company trade is far higher.

Thus, although we believe that the problems of U.S. automakers stem in large part from their failure to invest adequately in this country, we are certainly not opposed to foreign investment as such. Indeed the removal of U.S. investment disincentives and of foreign investment incentives and performance requirements are part of the same goal: to render special government regulations reasonably neutral in decisions about where to locate and improve productive facilities.

What are some of the distortive practices that exist at present? On November 3, 1981, in a written submission to the House Trade Subcommittee, Harvey Bale, the Assistant U.S. Trade Representative for Investment Policy, listed ten different trade-related performance requirements and restrictions placed on investors by foreign governments. These include:

(1) Export requirements;

(2) Requirements regarding minimum import and local content requirements;

(3) Requirements relating to size (e.g. capital invested or employment levels);

(4) Requirements regarding industrial sectors or specific industries;

(5) Requirements regarding location of industry;

(6) Requirements limiting foreign ownership (or providing for local participation);

(7) Requirements regarding employment of foreign nationals (or the employment of nationals, especially in technical and managerial positions);

(8) Requirements relating to investor financing and access to local capital;

(9) Restrictions on the remittance of earnings and the repatriation of capital; and

(10) Requirements concerning the introduction of new products and new or high-level technology.

Mr. Bale went on to state:

> "In the case of export performance requirements, foreign investors are required to export a minimum volume of percentage of their output, often as a condition for an investment incentive - e.g., a tax holiday or cost subsidy. This practice creates an export subsidy which we believe runs counter to the recently-negotiated GATT code on subsidies and and countervailing duties.
>
> Local content and import substitution requirements divert purchases of foreign-owned firms away from sometimes preferred foreign suppliers toward local producers. These local content requirements are, as witnesses in previous hearings have argued, the functional equivalent of quotas, which also run counter to the GATT."

In one specific example of the effect of the performance requirements, the Mexican Government has estimated that its Decree for Development of the Automotive Industry will, when it becomes fully effective in 1982, raise exports of Mexican auto parts from $650 million in 1979 to over $5 billion by 1985. Some 60 percent of these increased Mexican exports will be directed to the U.S. market. It is estimated that the equivalent of 86,000 to 115,000 jobs in the U.S. auto and auto parts industries would be lost by such an increase in Mexican exports.

Investment incentives may range from tax holidays, to the grant of free land and services, to low-cost loans, to the duty-free importation of components. The Commerce Department recently found that an average of 26 percent of U.S. affiliates overseas had received one or more incentives to invest. Twenty percent of all U.S. affiliates receive tax concessions, 8 percent receive tariff concessions, 9 percent receive subsidies, and 5 percent received other types of incentives. Almost an equal percentage of U.S. affiliates in developing countries and developed countries received incentives upon investing. The Commerce Department found a wide range from country to country in the percentage of companies that were granted investment incentives. Ireland, for example, granted one or more incentives to 70 percent of its U.S. affiliates. South Korea was second with 53 percent.

The effect of these incentives, Mr. Chairman, often is to ensure that investment that could increase jobs and productivity in the United States is placed offshore instead. Our own practice of deferring income taxes on manufacturing and investment earned abroad, and of granting immediate tax credits for income taxed abroad, contribute to decisions to invest outside the United States.

Since the end of World War II, the United States has devoted enormous attention to its international trade policy. Effective international rules and institutions, such as the General Agreement on Tariffs and Trade, have been developed to liberalize progressively the conditions for merchandise trade. A Cabinet position and a supporting agency, the U.S. Trade Representative and his Office, have been created to coordinate and execute U.S. international trade policy. An elaborate framework of U.S. laws are designed to ensure that U.S. companies are treated fairly in merchandise trade competition. Subcommittees of the Congress, of which this Subcommittee is a primary example, as well as Executive branch positions ranging from Undersecretary to Office Directors, are specifically charged with looking after U.S. merchandise trade policy.

Why has no similar effort been made in the area of international investment? Why is there no similar Executive branch structure for dealing with investment issues? Why has the international community not done more to establish discipline over national practices that distort international investment and impinge upon international trade competition? At present the only semblance of effective discipline exists in a network of bilateral tax treaties and commercial treaties maintained by the United States that help to create a somewhat more secure environment with respect to rights of establishment by investors, national treatment for foreign investors, and taxation of multinational enterprises. A small beginning toward multinational discipline has taken place within the Organisation for Economic Cooperation and Development (OECD). As early as 1961, the OECD adopted a Code of Liberalization of Capital Movements and subsequently the OECD inaugurated a Committee for Invisible Transactions and a Committee on International Investment and Multinational Enterprise, which hold periodic sessions on international direct investment issues.

In 1976, the second of these OECD committees produced "Guidelines for Multinational Enterprises" and Declarations on "National Treatment" and on "International Incentives and Disincentives." The "Guidelines" in fact are a voluntary, weakly-phrased code of conduct for multinational enterprises. The "Declaration on National Treatment" does provide that OECD member nations will:

> ". . . accord to enterprises operating in their territories and owned or controlled directly or indirectly by nationals of another member country . . . treatment under their laws, regulations and administrative practice consistent with international law and no less favorable than that accorded in like situations to domestic enterprises."

Even this simple principle of national treatment has never been ironclad, as evidenced by the continuing failure of Canada to accord national treatment to foreign investors under its Foreign Investment Review Act (FIRA).

The third part of the 1976 OECD document, the "Declaration on International Incentives and Disincentives," merely states that member countries should:

> ". . . recognize the need to strengthen their cooperation in the field of international direct investment; and they recognize the need to give due weight to the interests of Member countries affected by . . . incentives and disincentives to international direct investment."

This declaration commits its adherents to nothing.

In the years to come, the OECD initiative may be regarded as a first step in the evolution of a meaningful international framework to deal with investment. But the time has come to take additional steps, and to take them boldly. Accordingly, the American International Automobile Dealers propose that the United States take the initiative to commence a major study by the OECD of the interrelationship between trade and investment, the effect of national regulation of foreign investment through such measures as performance requirements upon international competition, and the institutional means for establishing international discipline over government regulations affecting foreign investment.

We anticipate that this study will find that the only effective means of imposing international discipline over national investment policies will be to establish an effective body of rules and organization similar to the GATT. Thus the AIADA proposes that the United States begin immediately to consult with its trading partners about the possibility of establishing a General Agreement on Investment Practices, to embody and administer agreed upon international rules governing national controls over investment. Only by thus forging a consensus about the problem of investment restrictions, by hammering out basic rules of fairness in dealing with foreign investors, and by creating a permanent international body to administer and nurture those rules, will sufficient discipline be exercised.

Finally, Mr. Chairman, the United States needs to act upon proposals to establish a Department of International Trade and Investment. Such a Department could, by combining functions now performed by U.S. Trade Representative's Office, the Overseas Private Investment Corporation, the State and Commerce Departments, take a clear lead in devising U.S. policies that treat international trade and investment as closely related parts of a unified international economic policy.

Mr. Chairman, the solution to unreasonable foreign investment regulations, such as performance requirements, is not to emulate them. The AIADA has, in fact, commissioned a study of the probable consequences of adopting U.S. local content requirements for the automotive industry. This study, which is being submitted for the record, concludes that such U.S. performance requirements would be economically inefficient, would do serious harm to U.S. automobile producers, would invite retaliation by foreign governments, and would violate several U.S. international obligations.

Our conclusions about the undesirability of U.S. performance requirements are consistent with our more general observations about the futility of emulating bad policies of other nations rather than seeking the elimination of those policies. Additional U.S. trade restrictions and quotas are rarely effective in addressing the long-term problems of a U.S. industry. No where is this more true than in the automotive industry, where "voluntary" export restraints by the Japanese have been counter-productive and have reduced the effective competitiveness of U.S. automobile manufacturers. The "voluntary" Japanese restraint has increased consumer costs for automobiles by some $4.5 billion annually, without adding a single job in U.S. automobile factories. The artificially created shortage for Japanese cars has enabled dealers and manufacturers in the United States to increase their prices by as much as $1,000-to-$1,500 per unit.

The absence of price competition for imports has enabled domestic manufacturers to increase prices of U.S.-made cars both by raising the sticker prices and by increasing such items as "transportation fees" by as much as 300 percent to more than $500 in some instances. By contrast, transportation charges on a Japanese import are less than $200.

For the imported automobile industry, the quotas have meant even greater price increases, far exceeding the 7.5 percent price increases announced by the manufacturers. Announcement of the import restrictions triggered an immediate demand for Japanese cars by the consumers, in conformity with the accepted marketing saw that nothing makes a product so desirable to the American consumer as the knowledge that it is either in short supply, a new trend, or illegal.

Dealers responded by largely eliminating any discounts formerly offered, thus increasing the price by approximately $200. Cars in stock now frequently include such expensive options as customs glazing, undercoat and rust proofing, adding as much as $500 to the cost. The "sticker shock" that results from these price increases has been an even greater factor than sustained high interest rates in maintaining depressed U.S. auto sales. The Japanese "voluntary" restraint agreement (VRA) that results directly from pressure by the U.S. Government has contributed substantially to that "sticker shock."

And what have U.S. auto companies done with the "opportunities" to amass capital and increase productivity that supposedly were presented to them by the Japanese VRA? For the most part the U.S. companies have, even in the face of heavy financial losses, continued to invest heavily abroad - an indication of the power of investment incentives. Despite cutbacks and delays in its domestic capital spending program, General Motors has continued its ambitious expansion program in Europe and elsewhere. GM has also strengthened its ties with Isuzu in Japan, in which it owns a 34 percent interest, and has extended its Japanese commitment with the purchase of a 5 percent interest in Suzuki, makers of ultra-small mini-cars. Ford has continued its expansion of engine-making facilities in Mexico and has entered into a further venture with its Japanese partner, Toyo-Kogo (Mazda) to provide engines and transaxles for U.S. front-wheel drive Fords. Chrysler has reinforced relations with Mitsubishi and has permitted its Japanese partner (15 percent interest) to begin its own importation and distribution operation in the United States beginning in 1983. In some cases, further investment abroad was necessary to meet performance requirements for investments already in place.

These U.S. automotive companies are voting with their cash that internationalization of automotive production is the wave of the future. Politically-contrived import restrictions have no place in that future, for the companies that are restricted are increasingly owned in part by American companies, or are purchasers of American automotive parts, or are investors in the U.S. market. Nissan's light truck factory in Tennessee, for example, is well along in the construction process and

Honda has announced another factory, to supply major components, that will be built along side its automobile factory in Ohio, where construction began in December, 1980. Volkswagen already is producing automobiles in Pennsylvania, and Mercedes has committed substantial investments in production facilities.

In 1980, the Toyota companies in the United States and Japan purchased $260 million in parts and accessories from U.S. suppliers, an increase of nearly 60 percent over the 1979 total of $163.4 million. The import value of purchases by Toyota in Japan totalled $153.9 million for parts and accessories used in auto assembly lines operations and for non-automotive items. This has nearly doubled the 1979 figure of $88.6 million.

In addition, replacement parts and accessories totalling $106.1 million were purchased from 50 U.S. supplies by Toyota, U.S.A. These purchases amounted to a 42 percent increase over the 1979 total and increased to nearly 42 percent the U.S.-manufactured share of all replacement parts and accessories purchased by Toyota, U.S.A. for the U.S. market. Since 1975, parts and accessories purchased by Toyota in the U.S. have increased more than 400 percent.

Toyota also is anticipating a substantial increase in U.S. purchases during the present year.

Nissan, in its fiscal year ended March, 1981, increased its purchase of U.S.-made parts and components to $91 million, double the 1979 fiscal year purchases of $44 million. The company originally anticipated a further 12 percent growth in

U.S. purchases, to more than $100 million this year. Signing of a contract with Borg-Warner Corp. to provide five-speed transmissions to Nissan may accelerate that growth substantially.

In the end, it is a growing internationalism that may provide the salvation for the U.S. auto industry by making it competitive in world markets, bringing new factories and capital into this country from foreign manufacturers, creating demand for U.S. parts, materials and components, providing financial strength for weakened U.S. companies such as Chrysler through merger and partnership. Economic nationalism and protectionism, whether in the trade or the investment field, will doom our auto industry to permanent non-competitive status and dwindling effectiveness in the marketplace.

The free market doctrine works - on an international, as well as a national basis, and for the treatment of investment as well as treatment of trade and goods. Efforts to manipulate the market through such devices as imposed quotas, domestic content laws, or performance requirements, are, in the long run, counter-productive, and force manufacturers into uneconomic investments that distort trade practices and raise prices. The efforts of this Committee and this government should be directed at ending these market-distorting practices wherever they exist in the world and not to encourage the adoption of such practices by this country. It is for this reason that the AIADA has made its proposals for a major study under auspices of the OECD, and ultimately for a General Agreement on Investment Practices that will establish the rules and the institution for imposing discipline over the treatment of foreign investors by national governments.

March 12, 1982 Statement
of the
Electronic Industries Association
"EIA"
to the
Subcommittee on International Trade
of the
Committee on Finance
United States Senate
on the
UNITED STATES APPROACH TO THE 1982
MEETING OF WORLD TRADE MINISTERS
ON THE GENERAL AGREEMENT ON
TARIFFS AND TRADE (GATT)

The Electronic Industries Association (EIA) feels that the Tokyo Round of Multilateral Trade Negotiations (MTN), building on a continuum of previous Rounds, produced an international trading system which would serve well the interests of the United States.

Unfortunately the hoped-for equivalence of competitive access to the markets of our trading partners has not materialized. Although the U.S. market has always been open, foreign markets are closing, not opening.

Therefore, the forthcoming GATT Ministerial Conference must concentrate on two critical problems:

- How better to utilize the multilateral Codes of Conduct so that they do, indeed, work toward the opening of markets;
- How to discourage the utilization of non-tariff barriers which circumvent the existing Codes and, consequently, restrict access into a nation's marketplace.

Unless the highly industrialized economies allow competitive access into their markets, the international trading system will collapse.

In our experience, there is access for high-technology articles which are not produced in a given economy; there is less and less access for articles which are produced there.

One nation can make a conscious decision to develop a selected industry.

The importation of articles produced by that industry becomes restricted. Meanwhile, the selected industry develops. In due course, it satisfies domestic demand and seeks export markets.

Export markets do materialize in countries affording competitive access. But, then, their own domestic industry finds itself penetrated and, frustrated in its attempt to maintain volume by exporting, begins to cry for restrictions on access to its home market.

We have just described the genesis of "Reciprocity," as it is now being demanded from many quarters in this country.

Neither management nor workers in afflicted sectors of industry can long abide the erosion of their home markets by products originating abroad. When those products originate in countries where access is not accorded to our products, the inequity is obvious.

The measure of inequity is the degree of reciprocal trade:

Overall trade,
Trade in manufactures,
Trade in the articles of a given sector.

Inequity can exist at each level, but scrutiny at the level of sectoral trade will reveal which industries have been selected or "targeted" by a given foreign nation.

The electronic industries are targeted. Communications equipment, computers and peripherals, and semiconductors (the electronic components of which the other two are made) are the present target. The home market of our domestic companies is being penetrated by products originating in certain foreign countries. Yet our companies are simply unable to consumate transactions in those same countries.

Those countries must contrive to open their markets. They must practice the conduct described in Codes they have already signed. They must also desist from erecting a complex of other barriers, not described in Codes. They must do so with especial respect to the markets of their selected, target industries.

Because that will be very difficult to achieve, it should occupy the agenda of world Trade Ministers as they meet in GATT next November.

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EIA, a Washington-based trade association, represents some 380 American companies of all sizes, ranging from small single-product businesses to large multinational corporations, involved in the design, manufacture and sale of electronic components, equipment and systems for governmental, industrial and consumer use.

In 1981, U.S. factory sales of electronic products were $117 billion, of which over $23 billion was exported. That figure would be even higher if the electronic content in such equipment as airplanes, machine tools and other electronic-driven capital equipment were separately identified.

In the same year, the imports of electronic products were almost $19 billion, so that our sector produced a trade SURPLUS of $4.5 billion. That was in a period when the economy as a whole suffered from a very large trade deficit.

Electronics manufacturing directly employs 1.61 million Americans. Of these jobs, about 600,000 are tied to exports. Whether measured by production, trade or employment, "Electronics" continues to be a growth sector and one of the major, positive factors in the U.S. economy.

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STATEMENT

Submitted by

THE LABOR-INDUSTRY COALITION FOR INTERNATIONAL TRADE

Before the

SENATE FINANCE COMMITTEE
SUBCOMMITTEE ON INTERNATIONAL TRADE

GATT Ministerial Meeting

March 1, 1982

The Labor-Industry Coalition for International Trade (LICIT) believes that the GATT ministerial meeting scheduled for this November offers the United States the opportunity to significantly improve the development of international commercial relations through the rest of this decade and into the 1990s. LICIT would like to recommend that high priority be given at the Ministerial to an area that the GATT has never dealt with successfully and that now is becoming an even greater problem in world trade. That policy area is the beggar-thy-neighbor or mercantilist measures used by many countries to artificially increase their exports and unfairly expand their share of world trade at the expense of their trading partners. This is accomplished through direct subsidization of exports, through subsidized official export credits and, more recently, through export requirements levied on foreign investors as a condition of market access.

The trade issues of the future are substantially different than those with which the GATT has been concerned with for thirty years. Tariffs are generally no longer a major factor in world trade, at least among developed countries. */ Indeed, the success of the GATT in lowering tariffs has revealed, and even helped to generate, a variety of non-tariff barriers. The last

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*/ However, they are still significant in most developing countries. An issue that needs to be faced in the GATT is how to get the tariffs of the newly industrialized countries (NICs) lowered, when the developed countries have already lowered theirs and have no further tariff reductions to offer in exchange for such reductions by the NICs.

round of multilateral trade negotiations made a significant beginning in going beyond tariff negotiations to address non-tariff barriers through codes of conduct. Ambassador Brock has indicated his intention to broaden the concerns of GATT to address services and investment issues in November. This is a major initiative which deserves substantial private sector support at home. LICIT offers the following specific comments on several issues that need to be addressed lest the success of the GATT in reducing tariffs be undermined by mercantilist measures which countries use to unfairly expand their exports.

Export Requirements

Export requirements for foreign investment are not explicitly prohibited by the GATT, although a good case can and should be made that some types of export requirements, especially when associated with incentives, violate particular GATT articles and underlying principles. */ In this light, it is surprising that a greater effort has not been made to bring these practices under the discipline of the GATT. The neglect of GATT rights in this area has encouraged the belief that export requirements are consistent with international trade rules. We applaud the efforts of USTR to begin to bring GATT attention to this subject. In the absence of effective discipline on these practices, pressures can only grow for countries to offset the trade distorting effects of such practices.

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*/ See LICIT, Performance Requirements, Washington, D.C. (March 1981) pp. 19-25.

The longer this issue is left unaddressed by the GATT, the more widespread it will become and the more difficult it will be to stop the trade distortion caused by such measures. We believe that it is in the national interest of the United States, as the world's largest foreign investor and most open market, to take the lead with respect to international efforts to curb the proliferation of these practices. The GATT ministerial meeting offers an excellent opportunity for the United States to argue that requirements on foreign investors to export a specified amount of goods or percentage of their local production is inconsistent with fundamental GATT principles and should be proscribed.

A failure to take the opportunity to address this issue in November will have serious consequences for U.S. firms and workers. For example the Mexican government, emboldened by the lack of any serious international objection to their automotive degree, has recently begun to implement similar measures for "the manufacture of computer electronic systems, its main modules and its peripheral equipment." These measures will affect U.S. companies forcing them to export substantial amounts of computers and related equipment, most of which would probably come to the U.S. market, as a condition of their continued access to the Mexican market. While Mexico is not a GATT signatory, an explicit GATT prohibition regarding export requirements would be extremely useful in negotiating with Mexico to halt such practices.

The government of Canada recently required Volkswagen, as a condition of receiving duty-free treatment for certain of its vehicles imported from the United States under the U.S./Canadian Automotive Agreement, to produce and purchase automotive parts in Canada for use in its production of cars in the United States.

Examples of governments requiring a certain amount of export performance from foreign investors keep increasing. These are not isolated phenomena. The 1977 Benchmark Survey of U.S. Direct Investment Overseas, released last summer, showed that U.S. majority-owned foreign affiliates were subject to export requirements in countries of all levels of development and across major industrial sectors. The countries included Mexico, Spain, Ireland, India, Brazil, Israel, France, Taiwan, Canada and South Korea. The industrial sectors included transportation equipment, electrical and electronic equipment, chemicals and allied products, primary and fabricated metals and non-electrical machinery.

If the U.S. government doesn't press this issue at the GATT ministerial, a critical opportunity could be lost to avoid the potential trade damage that will result from the continuation of beggar-thy-neighbor export requirements.

Subsidized Official Export Credits

Official export credits offered at subsidized rates are more of an international trade problem today than they have ever been. The OECD estimated that in 1979 export credit subsidies by the industrial countries totaled $5.5 billion. The U.S.

government has estimated that this subsidization on official credits outstanding increased to about $7.5 billion in 1980. It is likely that the subsidies may have exceeded $10 billion in 1981, almost doubling in just two years.

Despite the hundreds of billions of dollars in manufactured exports and millions of jobs which are affected each year, there exists no effective international discipline over this form of unfair competition.

The recently negotiated Code on Subsidies and Countervailing Measures prohibits subsidized export credits. However an exception was made for countries which are party to the OECD Arrangement on Guidelines for Officially Supported Export Credits (the arrangement does not cover the export sale of commercial aircraft, nuclear power generating equipment or ships). This exception covers all the major OECD countries. The minimum interest rates in the Arrangement are so far below current market rates that a high degree of direct subsidization is possible. Thus even though the GATT code signatories have agreed that subsidized export credits are to be proscribed, the exception created in the code and the failure of the OECD Arrangement to exert any discipline over such practices means that this type of unfair competition continues.

Almost all of the official export credit competition concerns capital goods in sectors such as commercial aircraft, electric power, mining and refining, communications and construction equipment. These capital goods are technically advanced, of high quality and have a long useful life, often extending beyond 10 years. Associated with such products are highly productive, good quality jobs including those for engineers, metal workers, electricians, research scientists, and machine tool operators.

These characteristics of the capital goods sectors -- technically sophisticated products requiring highly skilled, productive workers -- reflect the strengths of the United States' international competitiveness. It is not surprising that the capital goods sector has consistently registered the largest surpluses in the U.S. international trade accounts, averaging $43 billion annually the last two years. Yet, it is precisely in this sector that subsidized official export credits threaten to undermine U.S. comparative advantage. LICIT is confident that the United States can compete very well in terms of quality and price. But the subsidized export credits must be curtailed.

U.S. negotiators are attempting to change the OECD Arrangement so that interest rates in the arrangement reflect market rates of interest. So far they have achieved very limited success. The fact that the U.S. is currently cutting back on the Export-Import Bank's operating authority, a move which LICIT strongly opposes as long as other countries continue their subsidy practices, lessens the chances of any further negotiating successes.

Unless the United States succeeds in changing the Arrangement to effectively eliminate direct interest rate subsidies on official export credits, some other means will have to be found to bring discipline over this serious international trade problem. One way to do this would be to have an evaluation of the Subsidies Code at the GATT ministerial, pointing out how discipline has not been achieved with respect to official export credit subsidies in the OECD.

Developing Countries and Direct Export Subsidies

Another issue to raise in any evaluation of the Subsidies Code is the continued failure of the GATT to extend discipline over developing countries with respect to direct export subsidies on industrial products. The GATT does not proscribe direct subsidization of exports by developing countries, no matter what their stage of industrial development. The attempt to extend some discipline over developing country export subsidies through the Subsidies Code has not succeeded. In the first instance this is the result of the failure to have included in the Subsidies Code a clear requirement under which developing countries would have agreed unequivocally to phase out their export subsidies on industrial products within a given time frame. Absent a specific prohibition, the U.S. has not been successful in extracting specific commitments from developing countries when they accede to the subsidies code and thereby obtain the benefit of an injury test under U.S. countervailing duty law.

Given the failure of the Subsidies Code, as agreed to in 1979, to effectively address two issues of long-standing and continued importance - subsidized official export credits and direct export subsidies on manufactured products by developing countries - serious consideration should be given to having an evaluation of the Subsidies Code in November highlighting these failures and directing the participants seek more effective solutions.

STATEMENT

Submitted by

THE SEMICONDUCTOR INDUSTRY ASSOCIATION

Before the

SENATE FINANCE COMMITTEE
SUBCOMMITTEE ON INTERNATIONAL TRADE

GATT Ministerial Meeting

March 1, 1982

SUMMARY

Our point of departure for trade policy is that there is no good substitute for complete openness across international borders to international trade, investment and knowledge. While most of the major advances in semiconductor technology have been wholly American, in fact the first microprocesser was put together by a group of engineers working in California for a foreign customer.

The salient point is that as in no other area of international trade and investment, in knowledge-intensive goods there is a basic synergy that makes international exchange extraordinarily beneficial. The flow of technology, trade and investment across borders benefits all nations.

To restrict trade is ultimately self-defeating. When the Japanese chose to restrict minicomputer imports in the early 1970s, they slowed progress in a thousand of their domestic industries, limited the evolution of the applications for computers in Japan, and weakened the development of the software industry in Japan. Today, Mexico and Brazil are seeking to take a great step forward, but are injuring themselves seriously in that attempt.

One would suppose that the truth of this proposition -- that openness in high technology trade and investment is globally beneficial -- would be a self-evident proposition. Yet increasingly, trade and investment in high technology goods are being curtailed, restricted and rechanneled.

Every time we read of an American company's joint venture abroad, and the article notes that the U.S. shareholder has taken a 49 percent equity position in the new company, that so much local content will be included in the new products, that technology transfer has been required, we can see the hand of a foreign government working against the normal operation of the free market. Every time we read of a major nationalization of a foreign high technology firm, we have to begin to wonder whether that firm will behave in the marketplace according solely to commercial interests. Every time we read about a new government program sponsoring cooperative research and development, we should enquire whether foreign-owned companies, even those resident in the country concerned, are eligible to participate.

There is abroad, for high technology trade and investment, a neomercantilism that is spreading throughout the industrialized world, including the newly industrializing countries. It is becoming apparent that the major determining factors of high technology trade in the future will be neither the average tariffs on industrial goods which in developed countries will only average 4% in 1987, nor the codes of conduct with respect to nontariff barriers. The basic assumption has been that open market conditions will prevail when barriers and distortions at the border are removed. Increasingly in the high technology area, this assumption cannot be accepted.

The U.S. Administration has suggested to our major trading partners that the problems of trade and investment in high technology must be made a matter of priority concern in the upcoming international negotiations under the auspices of the GATT. This priority is well-founded, and immediate steps are essential if extraordinary damage is to be avoided to the creation and development of those products of the future which hold the greatest promise for mankind. In this testimony, the Semiconductor Industry Association submits some proposed topics for international negotiation which deserve serious consideration at the GATT ministerial meeting in the fall of this year.

Introduction

The importance of the upcoming GATT ministerial scheduled for this fall cannot be overemphasized. It will be the single most important factor in determining which issues will receive international attention in the next decade. It is therefore imperative that the United States take maximum advantage of the meeting to ensure that the highest priority concerns of this nation in eliminating remaining trade barriers and expanding foreign market access are addressed at this session.

Distortions of international trade in high technology products deserve and demand a place at the very top of the U.S. list of priority issues.

Indeed, the Administration has committed itself to an immediate, aggressive response to problems of trade and investment in high technology. Administration officials have repeatedly emphasized that high technology will be one of the major trade issues of the decade, and that it will press for liberalization in this area. USTR Brock testified last October, */ advocating a more than reactive policy for the United States -- "A more forward-looking approach in the high technoogy industries -- a preventive perspective both domestically and internationally." Speaking recently at Davos, Brock included the challenges facing the U.S. high technology industries on the list of U.S. high priority items to be addressed at the GATT ministerial. In his Statement on U.S. Trade Policy, he assured us that future negotiating efforts within GATT would extend international discipline to this new sector. We strongly affirm that the problems in this sector -- a sector vital to the United States and to every other nation -- have reached a critical level, and are already impairing wider relations among major trading nations.

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*/ "Statement of Ambassador Brock (USTR) Before the Ways and Means Committee Subcommittee on Trade, Oversight Hearings on Trade Policy," October 29, 1981, p. 13.

Many of the problems in high technology trade and investment serve as prime examples of the broader barriers to services and investment the United States is seeking to eliminate, and effectively illustrate the danger of allowing existing trade-distorting measures to continue. High technology issues require a more specialized focus, however. These industries are of unique importance to every nation and to worldwide technological progress. Technology changes so quickly and forms of government intervention are so diverse and so pervasive that anything less than an immediate, comprehensive and direct approach to high technology issues will not succeed.

We urge adoption of a two-tiered approach. In the near-term, the United States should actively seek to open foreign technology markets to U.S. trade and investment through negotiations on a bilateral level. Concurrently, it is essential that we utilize the GATT ministerial to lay the groundwork for the future expansion of our efforts to the multilateral level in order to establish an improved framework for international trade and investment.

A Sectoral Focus Is Appropriate And Essential

We agree that a sectoral approach to most international trade problems is neither necessary nor appropriate. However, a sectoral focus is essential and is the only effective approach to current high technology trade issues.

High technology is not just another significant product sector. Defined by input rather than product, its parameters cut across other product sectors and will shift with time to encompass any product highly dependent on extensive research and development and constant innovativeness. These are the products generally in the forefront in determining any nation's industrial strength and future competitiveness. Singling out high technology trade problems for special focus is quite different from sectoral negotiations on a purely product-specific basis.

No other category of products is as uniquely important to every nation. Semiconductors are one example. Because of their defense-related uses, semiconductors are crucial to the U.S. national security. In addition, this is a core industry, feeding into all other major U.S. industries. Not only are semiconductors vital to the future growth and competitiveness of the U.S. computer, telecommunications and electronics instrumentation industries and to pioneer industries like robotics and genetic engineering, they are absolutely critical to the future health of our steel, automobile and textile industries. The importance of products such as these to every nation's industrial base, national defense and economic health, to international technological progress, and to the free international flow of information, is rivaled by no other sector. Focussing on high technology trade and investment problems must therefore be high on all nations' agendas.

There is an additional impetus for international consensus in this sector. High technology problems are affecting broader trading relations between GATT members, and raise the threat of further unilateral protectionist measures and the undermining of the GATT system if progress is not imminent.

A sectoral focus is mandated by the pervasiveness, diverse nature and difficulty of quantifying the obstacles to free trade and investment in this sector. A comprehensive approach is the only truly effective alternative.

Unlike most sectoral trade problems, we are not dealing here with the familiar situation of foreign government protection of infant or ailing industries in response to domestic economic and political pressures. Our trading partners are protecting and promoting their highly competitive high technology industries with the intention of taking advantage of the open U.S. market by expanding exports from a sector insulated from foreign competition.

Many of these problems involve issues which cannot be dealt with adequately under existing GATT law. High technology products are by definition new and constantly changing. The adverse effects of current foreign government policies will be felt in the future and are immediately neither apparent or quantifiable. To deal effectively with Government measures protecting and promoting their high technology industries, existing GATT provisions must be strengthened and expanded.

A strong precedent exists for this type of approach. Multilateral agreement on a sectoral issue has been achieved within GATT in the area of civil aircraft. The 1979 Agreement on Trade in Civil Aircraft provides an excellent model and precedent for a multilateral focus on high technology issues, due to the significant parallels between the two sectors in industry importance, types of problems, and mutuality of benefits. Like the high technology sector, the U.S. civil aircraft industry had been dominant internationally since its inception. In the late seventies, this position was seriously challenged by foreign competition stemming in large part from foreign government subsidization, restrictions on market access, and a range of unfair trade-distorting policies and practices. Like the high technology industry, the civil aircraft industry is of particular importance to the U.S. economy and trade balance, and is peculiarly dependent on access to world markets. As with high technology, international agreement would benefit the industries and economies of all nations.

GATT members were able to reach agreement establishing a framework to govern trade in the civil aircraft sector. The agreement is directed at eliminating the adverse effects of a myriad of trade-distorting measures, encouraging continual worldwide innovation, and ensuring that producers of all signatory nations are provided fair and equal competitive opportunities. The high technology sector is an even stronger candidate for international negotiation and agreement.

The High Technology Issue

Much of the progress achieved to date in expanding and liberalizing international trade and investment is being eroded by a wave of neomercantilism. Policies and measures implemented by foreign governments today echo the mercantilist policies of Western European nations three centuries ago. Motivated by the desire to build strong nation-states, and perceiving total world economic welfare as finite and any benefit to one nation therefore only achievable at the expense of another, each government pursued an aggressive, nationalistic economic policy aimed at securing a favorable balance of trade. To achieve that end, governments vigorously protected and promoted their industries and regulated trade in order to limit imports and expand exports. There are striking and disturbing parallels between the range of tariffs, subsidies, financing, anticompetitive devices and industrial policies during that time of nationalism and international animosity, and those prevalent today.

Today our trading partners are increasingly intervening in the normal flows of international trade and investment, with the similar intent of expanding exports and restricting access to their markets. Such short-sighted actions threaten to eradicate the progress achieved to date within the GATT, to deny all nations the benefits of free trade, and to return us to an era of protectionism and retaliation.

This neomercantilist movement is in no area more dramatic than in high technology. Having recognized the critical nature of high technology industries and their direct relation to each nation's international competitiveness, foreign governments have made those industries the focus of nationalist policies. Our trading partners, including many of the newly industrialized countries, are unfairly protecting and promoting their industries while restricting foreign access through a range of tariff and nontariff barriers and other trade-distorting measures such as government and joint government-industry planning and establishment of objectives, toleration of anticompetitive practices, investment performance requirements, subsidization, sponsorship of limited-access joint research projects, and preferential financial and taxation measures. In contrast, the United States market is substantially free of government intervention, and is open to foreign imports and investment.

The European Community is developing a sweeping program designed to coordinate research, design and production efforts in order to achieve a unified European market and expand its share of the world market. Microelectronics has received particularly high priority by the EC Council and Commission. A recent Commission report proposed measures to coordinate and exchange information about national initiatives in this area, a concerted effort to develop relevant knowledge and skills within the Community, and the promotion of a European production capacity in the most advanced integrated circuits. In addition, individual European governments support and protect their industries through a range of programs and policies.

In France, for example, development of technologically advanced industries and the encouragement of related research is a central element in the latest five-year plan. As part of this effort the French Government promotes its integrated circuit industry through a program involving funding of $150 million over a five-year span, sponsorship of R&D projects, and measures to increase production capability, and encourages the assimilation of U.S. technology through joint ventures with U.S. firms. In addition, French research and development efforts are rewarded with tax benefits such as a credit for R&D expenditures, high depreciation rates for research facilities, and special tax treatment for venture capital companies investing a high proportion of capital in innovation. These measures are complemented by export-enhancing and import-inhibiting policies such as mixed credit programs, industry-government cooperation in organizing and financing large projects, discriminatory public procurement policies, and conditioning foreign access on performance requirements.

Measures implemented by the German Government are even more striking, in light of Germany's market orientation and relatively open trade policy. The German Government provides an exceptionally high level of funding for research and development, even relative to other European nations. In 1978, for instance, the German Government financed 47 percent of total R&D. The

German Government influences the development of its high technology sector through a well-developed government-industry communications network composed of research institutions which administer government R&D funds, and advisory committees.

Through its New Technologies Program, the German Government has targeted certain key industries such as microelectronics, telecommunications, bioengineering and optic and control engineering, in an effort to ensure the international competitiveness of German industry in all high technology-related industries. Targeted industries receive government R&D funding on the basis of cost sharing. As part of its promotion of the microchip industry, the amount provided annually to one electrical company alone is estimated at $40 million.

The Japanese Government has adopted a national policy of promoting its high technology industries, emphasizing in particular the development and commercial application of state-of-the-art and next generation technologies. Attention is focused on the semiconductor industry, where the government coordinates a joint government-industry effort to improve the Japanese capacity in the greatest-volume, fastest-growing sector of the market. This effort is specifically geared to overtaking the U.S. lead in that sector. The programs are aided by tax incentives, low interest rates, accelerated depreciation and debt-leveraged financing. Moreover, the government's targeting of the semiconductor industry has made this a low-risk area, greatly improving access to private capital.

Direct government support of the industry is coordinated with policies which discourage imports and restrict foreign investment. U.S. firms seeking to export to, or invest in, Japan confront nontariff barriers ranging from discriminatory government procurement policies and internal procedures, preferential access to capital, government subsidization, and loans and guarantees for Japanese firms, to difficulties in recruiting personnel.

The more advanced developing countries are exhibiting the same neomercantilist tendencies. Those nations are increasingly aware that acquisition of foreign technology and their own technology-generating capabilities are integrally related to their development process and to their ability to maintain any level of international competitiveness. The result is a pervasive use of performance requirements and other policies restricting market access, government monopolization and funding, and tax and financial incentives.

Brazil is a prime example. The Brazilian National Development Plan is aimed in part at achieving competitive strength in numerous industrial sectors through increased acquisition and use of high technology. As part of that effort market access is denied to foreign firms representing a substantial competitive threat to Brazilian enterprises, or is severely limited through import restrictions and performance requirements. Through its computer program, for example, the Brazilian Government conditions foreign investment on the introduction over time of increased levels of Brazilian content. The Mexican Government similarly relies heavily on trade and investment restrictions and export incentives to promote its electronics and telecommunications industries.

The crisis currently facing the U.S. semiconductor industry illustrates dramatically the adverse consequences of policies like these. Our semiconductor industry is seriously threatened by foreign industrial policies and that threat will only increase in severity, absent a U.S. response.

Profit and employment figures for the industry look healthy, and our industry is still dominant internationally, but those indices are deceptive. The U.S. lead is declining. Despite increases in foreign semiconductor consumption, U.S. exports have not grown substantially.

Foreign semiconductor producers are challenging U.S. dominance in those memory chip sectors which will be most important in the future. Although the U.S. industry currently has 63 percent of the overall market share in the 16K RAM (16,000 bits Random Access Memory) market, it has only 30 percent of the market for the 64K RAM, expected to be the largest-selling chip by 1985. Foreign producers are well positioned in the race to manufacture the 256K RAM. Leadership in this sector is most important, since these are the most advanced, state-of-the-art products and demand for them is expanding at three times the rate for semiconductors as a whole.

Improved access to world markets is critical to the U.S. industry for two interrelated reasons. First, due to the structure and nature of the industry, access to capital and economies of scale are increasingly crucial. Second, if foreign industries are allowed to remain within their insulated environments of protection and support, our industries will ultimately be unable to compete.

The Need To Respond

A failure to respond to this new incidence of mercantilism -- particularly prevalent in the high technology field - would adversely affect each individual nation and the international system as a whole. In our highly interdependent international economic system, maximum worldwide development of high technology is undeniably in the best interests of all. To adopt short-sighted policies focused exclusively on national achievement is to divert us from the path of maximum efficiency and progress, and can only be counterproductive.

Elimination of the barriers to free international trade and investment can be the only logical goal in this sector for any nation. The global economies of scale and the access to capital essential to any viable high technology industry can only be achieved if market restrictions are eliminated. Moreover, except through fair international competition, the level of innovativeness so vital to high technology cannot be maintained.

By definition, high technology products are in the forefront of technological progress in every sector. Identified not by product usage but by input (the amount of research and development), the high techology sector takes the most sophisticated, innovative products from many product sectors, to form the wave of the future. Maximum development of this sector, which can only be achieved through unrestricted trade and investment flows, is vitally important to every nation.

These products and industries occupy a unique position in every national economy. Because of their diverse and pervasive uses, measures which deter progress in this area by restricting international free trade and investment in high technology, ultimately deter progress in a whole range of important industries.

High technology products play a uniquely central role in the international flow of information. As recognized in the Florence Agreement, the free flow of ideas between and among nations benefits society as a whole and is in the interest of each individual nation.

To persist in restricting market access and seeking to expand exports would be an ultimately fruitless effort for any nation. Even purely national goals are not likely to be achieved in the current atmosphere. The new incidence of mercantilism threatens to return us to a new period of retaliation and protectionism. Developed and advanced developing nations alike would soon find foreign markets closed to them.

Policy Proposals

We and our major trading partners must succeed in coping with our high technology trade problems through a process of negotiation and agreement. Otherwise, unilateral implementation of protectionist and retaliatory measures is inevitable.

Immediate expansion of foreign market access can be achieved through negotiated bilateral agrements to eliminate existing barriers to high technology trade and investment. The proposed "High Technology Trade Act of 1982" would authorize the President to negotiate and enter into such agreements. It would also ensure the maintenance of the consensus achieved through mutual concessions which forms the foundation of GATT, by expanding the scope of presidential responses, allowing the president to address a wider range of unfair market barriers, and permitting him to limit where necessary the exports and investments of foreign nations which persist in pursuing neomercantilist policies.

Bilateral agreements should be the stepping stone to establishment of a comprehensive multilateral framework for dealing with high technology issues. Multilateral agreements will take time, and it is essential that GATT mechanisms be activated now to identify the issues, define the approach, and establish a timetable. We urge the Administration to utilize the GATT ministerial to seek commitments from our trading partners to negotiate and enter into agreements to achieve mutual market access in the high technology sector.

In order to result in an effective and acceptable solution, any negotiations and agreements -- whether on a bilateral or multilateral level -- would have to encompass commitments on certain fundamental points.

The obvious starting point is the reduction and elimination of existing tariff and nontariff barriers. To this end:

- The United States, Japan, and the European Communities should pledge to reduce tariffs in key products such as semiconductors and computer products to a level of parity, and then to eliminate those tariffs.
- Participants should commit themselves to eliminate particular nontariff barriers. Specifically, the United States should seek elimination of customs practices, product standards and rules of origin which restrict access to the Japanese and EC markets.
- The United States, Japan and the EC should pledge to discourage the adoption of private "buy domestic" policies. Japan should recognize the less formalized but very pervasive "buy Japan" mentality, and should commit itself to opening Japan *in fact* to industrial procurement, enhancing its efforts through financial and regulatory inducements.
- All participants should commit themselves to the freest possible international information flow, pledging not to interfere with the outward fow of nonstrategic technology and products.

Little progress is possible, however, without affirmative action on the part of all participants, evidencing an authentic commitment to liberalizing trade in this area:

- All participant governments should pledge to adopt or maintain an open market and a liberal trade and investment policy, with no diminution of existing market access, and progressive liberalization of barriers.

- The United States should seek commitments from foreign governments to review aspects of their domestic environments (including macroeconomic policies such as taxation, distribution systems, capital allocation and currency valuation) to determine their effect upon trade and investment, with a view to expanding and facilitating imports of goods, services and investment.

- The United States should seek commitments from its trading partners to jointly monitor increased market access, and to improve the supply of data relevant to that monitoring.

Equally essential to significant progress are measures to achieve greater cooperation and coordination of national policies:

- The United States and the European Communities should agree to coordinate their actions and policies in response to Japanese trade and investment issues, and the United States should seek a similar commitment from Japan concerning EC trade issues.

- The three nations should agree upon a common approach to investment performance requirements in developing countries.

- The United States, Japan and the EC should negotiate an international interconnect agreement.

- All three nations should agree to conform to an improved safeguard system for the high technology sector under GATT discipline

Obstacles to open market access are particularly prevalent in the areas of services and investment -- areas not currently subject to international agreement. It is therefore imperative that:

- The United States, Japan and the EC should commit themselves to taking affirmative steps to facilitate and ensure "national treatment" for foreign investment. This would include access to industry or industry/government-sponsored joint research and development projects and to capital markets on an equal basis with indigenous firms. The European Communities and Japan should pledge to extend this national treatment principle to their public procurement of telecommunications equipment. The national treatment commitment would also require participants to refrain from imposing performance requirements, such as forced technology transfers or minority equity participation requirements.

- The United States, Japan and the EC should agree to mutual liberalization of trade in services, including software, data processing, information flows and data communication tariffs.

Naturally, international agreement on the issues we have outlined will be of limited success if not backed by urgently needed domestic measures. The United States must consider measures to make the domestic environment more conducive to the international competitiveness of U.S. firms, matching where possible the structural and policy advantages of foreign firms. Equally important are joint industry and government efforts to improve competitiveness through taxation measures, export financing, export controls, antitrust policy and improved management policy. Finally, the government should vigorously monitor import prices and quantities in order to target and take legal action against illegal, unfair or injurious trade practices.

Conclusion

The challenge facing our high technology "sector" is of critical importance both to the United States and to the international trading system. Its importance domestically derives from the crucial nature of these industries If we lose our lead in this area, our defense capability will decline and our entire industrial system and international competitive position will suffer. The challenge is important internationally because it is a very visible manifestation of the consequences of the new type of trade distortions that are proliferating and undermining the GATT system. It is also important because if the friction within this sector is not alleviated, the likely result will be a further deterioration in relations between major trading nations, and the imposition of unilateral measures which will counteract the benefits already achieved within GATT.

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Statement submitted by David J. Steinberg, President, U.S. Council for an Open World Economy, on the U.S. position in the forthcoming meeting of trade ministers, in hearings before the Subcommittee on International Trade of the Senate Committee on Finance
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(The U.S. Council for an Open World Economy is a private, nonprofit organization engaged in research and public education on the merits and problems of achieving an open international economic system in the overall public interest. The Council does not act on behalf of any private interest.)

Summary

This statement emphasizes the need for a deliberate, definitive, free-trade strategy in foreign economic policy, and for a full-employment, industry-adjustment strategy in domestic policy to backstop it. Whether or not this trade strategy is adopted, the statement urges reform of U.S. import-relief policy, and that of the General Agreement on Tariffs and Trade, to require that any import relief must be part of a coherent, comprehensive industry-redevelopment plan addressing the real problems and needs of the affected industry in the context of the total national interest. The United States is not prepared for either of these policy initiatives. The sights of both the government and the "liberal trade" community are too low.

Time for a Free-Trade Strategy

The United States should be prepared to do much more at the November 1982 meeting of trade ministers of countries adhering to the General Agreement on Tariffs and Trade (GATT) than it now seems prepared to do. Discussions looking toward negotiation of international codes of conduct concerning "service" transactions (for example, banking and insurance), as well as foreign investment, are in the offing. As are preparations for strengthening existing codes and negotiating a new standard of import relief (failure to negotiate such reform was a major shortcoming of the Tokyo Round). Complaints of insufficient reciprocity of market access in international commerce will be addressed. But even the aggregate of these important issues, as now conceived, is not enough for the next round of negotiations, or for the ministerial meeting per se. Some progress may be made on all these fronts, but whatever is achieved will not measure up to what needs to be accomplished, because the sights of the member nations will not have been raised to the coherent, comprehensive, cohesive free-trade strategy indispensable to maximum, optimum progress in opening international markets in goods, services and capital movements, and securing the highest standards of reciprocity within each of these sectors and across the whole range of international business relations. Only through a definitive free-trade strategy -- programming the removal of all international barriers and distortions of the world's most advanced economies in accordance with a realistic timetable which for some products and practices may have to extend to the end of this century -- can progress of this magnitude, reciprocity of this scope, be achieved.

The United States should declare its readiness to explore such a commitment with as many countries as care to participate in a free-trade arrangement under the rules of GATT. Advanced economies that do not participate would be denied the treatment the participating countries extend to one another, but would be free to join the agreement at any time. The world's underdeveloped countries should be treated as participating countries (possibly with tariff preferences) without the requirement of immediate, commensurate reciprocity, except that such special privileges should be conditional on general commitments on their part (a) to lower their own barriers as rapidly as possible in their relations with the participating countries, and (b) to provide the participating countries equitable access to critical raw materials at equitable prices. On certain types of international business, the commitments of the underdeveloped countries might be more specific.

Without this strategy, reciprocity will be partial, piecemeal and lax, as will most reforms in the code of fair international competition. Only a definitive free-trade strategy can spur total reform of the code of fair international competition; only total reform of the code of fair international competition is adequate for securing and sustaining a definitive, dependable free-trade policy. In short, there will not be a commitment to totally free trade without assurance of totally fair trade, and there will not be totally fair trade without a commitment to totally free trade. Free and fair international trade are one policy indivisible.

Getting the world's leading economies to discuss plans for such a charter is a most formidable undertaking, posing most formidable difficulties. But making it the highlight of the U.S. position at the forthcoming ministerial meeting, and keeping it persistently on this country's priority agenda even if no other countries immediately accept the U.S. initiative, will generate sustained, world-wide attention to this far-reaching proposition, leading sooner or later to its acceptance by a succession of countries.

Domestic Redevelopment Policy

Planning to raise the world's sights to such an undertaking in trade policy, the United States must move immediately to prepare its own economy to adjust to the much freer flow of imports, and the rapidly expanding opportunities for exports, which implementation of a free-trade agreement would stimulate. There should be no product exceptions to the free-trade charter, although product timetables may differ. A convincing commitment to full employment should be a major ingredient of a coherent, credible adjustment policy, as should a determined drive to increase productivity and keep it high. A definitive free-trade premise will help make the domestic redevelopment effort the soundest, most effective undertaking it can possibly be.

Whatever is done to help specific industries (via import relief or other means) should be in the framework of coherent, comprehensive industry-redevelopment strategies (to the extent the respective industries have reasonable prospects for viability in a rapidly changing and increasingly competitive world). All statutes and regulations materially affecting the industry's ability to adjust should be reassessed, and any inequities terminated. The industry should be required to make commitments (concerning prices, productivity, investment, etc.) for which it would be held strictly accountable in the total public interest.

Reform the Import-Relief Policy

Whether or not a free-trade initiative gets off the ground, the United States should move with deliberate speed to secure reform of the import-relief provisions of GATT along the lines of its own determination to reform its own (thus far not evident). It should proceed unilaterally along these lines in any case. The so-called "safeguard" standard should declare that no trade restriction of any kind, or industry-adjustment help of any kind, will be permissible except as part of a comprehensive industry-adjustment plan addressing the real problems and needs of the affected industry and phasing out as quickly as possible. The annual cost of such government assistance should be made public. Each industry-adjustment plan should be reviewed annually by the Administration and Congress (in the case of U.S. government assistance) to make sure that what should be done is in fact being done, and that government help ("subsidies" by any name) lasts no longer than is prudent and necessary in the overall public interest.

There is no sign that such reform of U.S. import-relief policy or that of GATT is being programmed by the U.S. government or advocated by U.S. "liberal trade" supporters outside our Council.

Upgrade the Caribbean Basin Trade Proposal

The readiness of the present U.S. administration to program tariff-free entry for nearly all Central American and Caribbean exports to the United States, over a 12-year period, as part of a development plan for the region should be upgraded to cover all imports from all underdeveloped countries of the Free World as part of a comprehensive free-trade initiative whose broader objective is accelerated economic development throughout the world economy, including the United States itself. The time frame should not be limited to 12 years; it should be indefinite, subject to revision for carefully defined emergency situations. This would bring the trade provision of the Caribbean Basin plan into consistency with GATT (otherwise a GATT waiver is necessary), specifically with the U.S. commitment to nondiscriminatory treatment of imports from all Free World countries. Upgrading the plan to cover all underdeveloped countries of the Free World would be highly preferable to seeking a waiver from GATT rules; the reasons relate to both the political and economic dimensions of foreign policy. No product should be exempt, and import relief strictly limited.

A more determined domestic-adjustment policy to prepare the U.S. economy for the challenges of progressively freer world trade (whether or not a comprehensive free-trade initiative is undertaken) would also help make the trade component of a Caribbean Basin development plan more substantial and credible.

Reciprocity -- Regressive of Progressive?

Those members of Congress whose firmly declared dedication to market-access reciprocity has led them to favor bilateral retaliation against countries that have large export surpluses in trade with the United States and do not lower or remove their import impediments as extensively and as rapidly as the U.S. government asks should redirect their energies on this issue. They should shift their focus from retaliation that would disrupt the world trading system we have painstakingly done so much to develop (whatever its imperfections) to an initiative to secure the ultimate in progressive reciprocity through a deliberate, authentic free-trade policy.

The proposals currently advanced in Congress to foster reciprocity would engender, not a processs of reciprocally freer trade, but a cycle of reciprocal retaliation as one country after another responded in kind to barriers the United States imposed bilaterally against them supposedly to correct market-access imbalances deemed harmful to U.S. interests. If true reciprocity -- progressive, not regressive -- is really wanted, its advocates should take the extra step (a giant jump indeed) to a free-trade strategy, and make the extra effort to make this initiative economically viable and politically palatable. The cycle of reciprocal action should move the nation and the world economy forward, not backward. A free-trade charter fully consistent with GATT would energize such a cycle of reciprocal liberalization.

The "promised land" of totally free trade, even among the economically advanced countries, may not be reached until some distant millennium, particularly as departures from the timetable take place (as well they might) in response to unforeseen emergencies. But definitive identification of the objective to be sought, the setting of strict standards for possible changes in the scheduled removal of barriers, and involvement of all the participants in an enforceable charter to whose provisions they are held fully accountable -- these will enhance the prospects for making this undertaking a viable one in international-trade diplomacy and world economic development. In the course of implementation, the timetable might even be accelerated.

If enforcement of current agreements and codes of international commerce is cause for disappointment and resentment, it may be wondered how an even more ambitious charter of international commitments could energize stricter adherence to the rules. The likelihood of greater success in the case of the more far-reaching commitment rests on the likelihood that, by embracing *all* international transactions of the participating countries, establishing a schedule for removal of *all* impediments, and thus involving a regimen of *total* reciprocity across the whole range of international business dealings of the participating countries, the greatest care would be taken in ensuring that the letter and spirit of such a venture are meticulously implemented in every detail.

I regret to say that America is unprepared both in foreign and domestic policy for the new trade-policy strategy that deserves our best efforts in the total national interest, the national-security interest per se, and the enlightened self-interest of every state in the Union. The "liberal trade" community itself, which ought to be out-front campaigning for this kind of initiative, still wallows in fuzzy concepts like "liberal trade," "freer trade" and "fair trade," apparently lacking the fortitude, the conviction and the vision to seek truly free and fair international trade in its most advanced form.

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